



Z2,7,15y7  
EGG

Z 2, 7, 18y7 2141  
BGG  
Gokhale, D.Y, Ed.  
Tilak case.

Z2,7,1547  
P65

2141

**SHRI JAGADGURU VISHWARADHYA JNANAMANDIR  
(LIBRARY)  
JANGAMAWADIMATH, VARANASI**



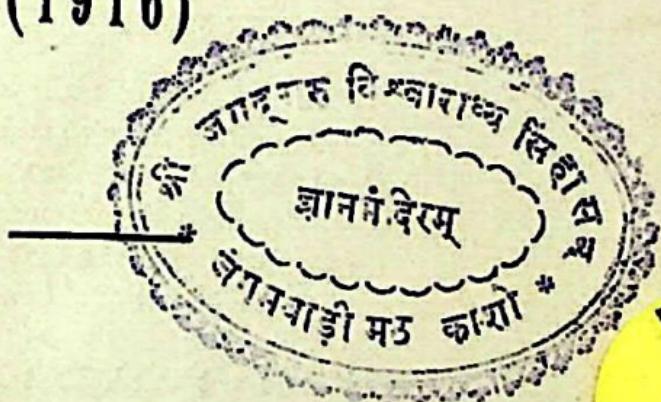
**Please return this volume on or before the date last stamped  
Overdue volume will be charged 1/- per day.**



THE  
**TILAK CASE**

*Security under Sec. 108 Cr. P. C.*

(1916)



EDITED BY  
**D. V. GOKHALE,**  
B. A. LL. B.

Published by

**PRINTING AGENCY**

Printers, Book-sellers & Publishers

POONA CITY.

## CALL OF MOTHERLAND.

---

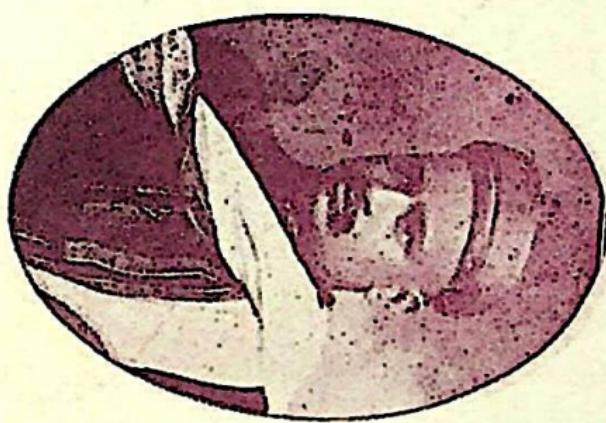
The national work which faces us today is so great, extensive and urgent that you all must work together with zeal and courage greater than I may have been able to show. It is a task which is not one that can be put off. Our Motherland calls every one of us to be up and doing. And I do not think that Her sons will disregard this call. However, I feel it my duty to beg of you to respond to this call of our Motherland and banishing all differences from your minds strive to become the embodiments of national ideals. Here there is no room for rivalry, jealousy, or fear. God will help us in the fruition of our efforts, and if not by us, it is certain that the point will be gathered by the next generation.

*Mr. Tilak in his reply to the congratulatory address presented to him on his 61st birthday (23rd July 1916.)*

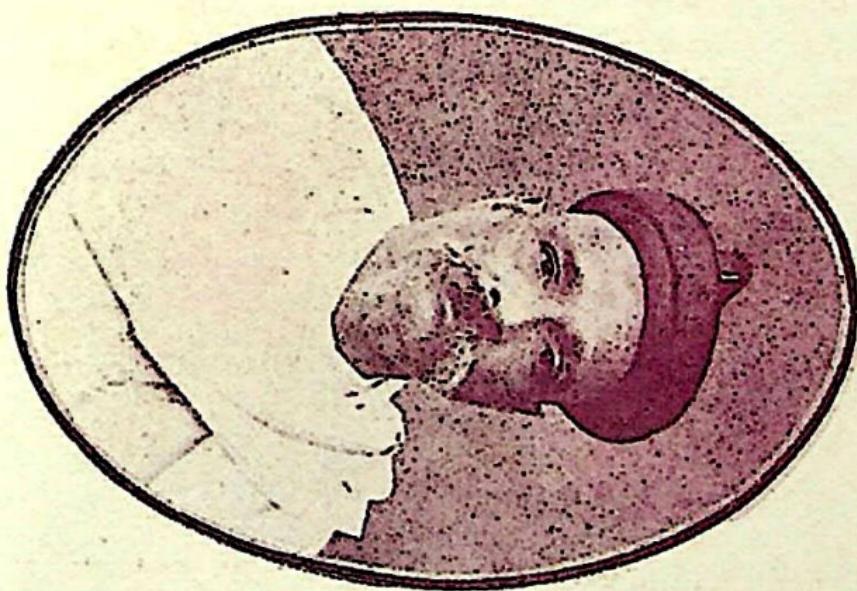
**SRI JAGADGURU VISHWARADHYA  
JNANA SIMHASAN J. J. ANAMANDIR  
LIBRARY.  
Jangamwadi Math, VARANASI,  
Acc. No. 214-1**

3

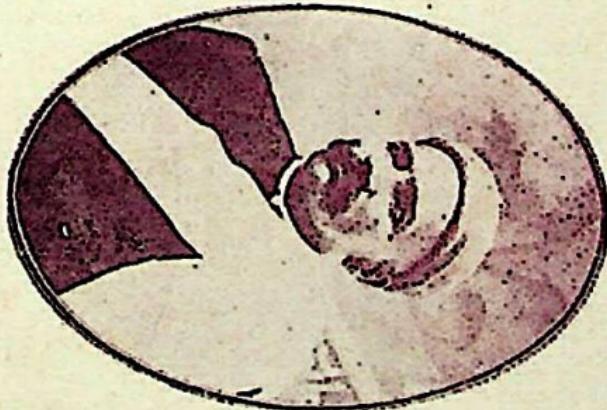
Mr. N. C. Kelkar



Lokananya Tilak



Mr. R. P. Karandikar





Hon. J. Batchelor



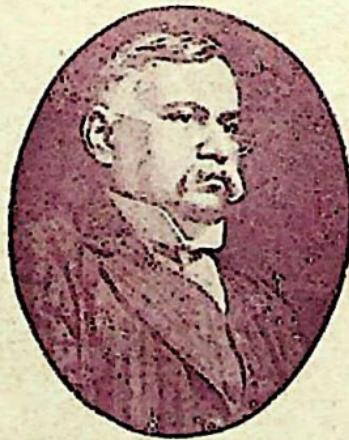
Hon. J. Shaha.



Hon. Jinha Bar-At-Law



Mr. Baptista Bar-At-Law



Mr. S. R. Bakhale



Mr. Yerulkar Bar-At-Law

# THE TILAK CASE

## Mr. Tilak and the Law of Sedition

"Give me but the liberty of the Press; and I will give the  
ister a venal House of Peers, I will give him a corrupt and a  
ile House of Commons, I will give him the full swing of the  
patronage of office, I will give him the whole host of ministerial in-  
fluence, will give him all the power that place can confer upon him  
to purchase submission and overawe resistance; and yet armed with  
the *liberty of the press* I will go forth to meet him undismayed. I  
will attack the mighty fabric he has reared with that mightier engine,  
and lay it beneath the ruins of the abuses it was meant to shelter."

Said Sheridan on the 6th of February 1810 in a memorable debate  
in the House of Commons. And a tribune of the people in  
India may, I think, utter the very same words today without being  
guilty of any boastful exaggeration. The Press in India has already  
achieved much; but it may aspire to achieve still more, by way of  
influencing and even dominating government, *provided its liberty is  
some how maintained*. And I use the word *Press* here in a wider  
sense, as representing a whole class of the means of expression of  
political opinion, including its equally powerful ally the platform.  
The law of sedition in India makes no difference or distinction  
between the spoken and the written word. For the words of section  
124 A of the Indian Penal Code are:—

"Whoever by *words either spoken or written or by signs or by  
visible representation or otherwise*, brings or attempts to bring into  
hatred or contempt or excites or attempts to excite disaffection  
towards Her Majesty or the Government as established by law  
shall be punished etc."

The tentacles of this octopian law of sedition, it will be observ-  
ed, can reach the spoken as well as the written word with the same  
fatal ease. And Government on their part have never shown any in-  
clination to discriminate between the two; though they should have been  
fair-minded enough to discern that a very large amount of allowance  
ought to be made for a speech which may not be made for a writing,  
for the simple reason that speech is always naturally, and often even  
by the very needs of the case, more spontaneous, more unguarded and  
less deliberate than writing. During the present epidemic of prosecu-

tions for sedition, which has lasted with unabated vigour for now nearly ten years, Government have sought to incriminate and punish, with the same standard of law and the same gusto of animus, a casual conversation between chance passengers in a lonely railway compartment and a blood-thirsty declamation in a secretly circulated newspaper. Only one broad objective test has been applied in dealing with incriminating words ; and though the mere technique of the law of sedition has varied, so far as actual results are concerned the spirit of the art of the suppression of public-opinion has ever and everywhere been the same. The Penal Code as operated through the Sessions Court, the Criminal Procedure Code as applied through the Magistracy, and the Press Act as administered by the agency of the executive Government, are merely different forms of sensational illumination falling under the same department of 'repressive fireworks'.

British rulers having undertaken in India the task and the responsibility of political government, in all seriousness and for an indeterminate period of time, it was inevitable that they should arm themselves with the necessary powers of dealing with political hostility with a suitable substantive law and procedure. But in the earlier years of their rule the purpose was well served by the enactment of some very crude Regulations, which provided a rough and ready method of physically dealing with inconvenient opponents who might threaten to be dangerous. An occasional cheque, drawn on the reserve of the plenary powers of the State, was calculated to meet the exigencies of an outburst of sedition ; and the deportation of hostile editors and agitators, of whom however there could then be but few, enabled Government to restore the even tenour of their administration without so much as provoking any audible murmur of public criticism.

Later on the criminal Law of India, which immensely varies in its provisions as well as administration in the various provinces was codified in 1837 under the orders of the East India Company by a Law Commission of which Lord Macaulay was the Chairman. That code for the first time made Sedition as such a distinct offence. The provision was embodied in section 113 of the draft Penal Code which ran as follows.—

Whoever by words either spoken or intended to be read, or by signs or by visible representations, attempts to excite feelings of disaffection to the Government established by law in the territories

of the E. I. Company among any class of people who live under that Government, shall be punished with banishment for life or for any term &c.

*Explanation.*—Such a disapprobation of the measures of Government as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation, is not an offence within this clause.

The clause was intended to import into India substantially the same law of sedition as it existed in England. The merits and demerits of the clause were deliberated upon among the members of another Law Commission in 1846; some members objecting to the wording, even such as it was, as very vague and severe, and others interpreting it as a direct attack on the public press in India. One member, Mr. Cochrane, regarded the words of the explanation as of a "very dangerous tendency and calculated to place men's rights and liberties in the discretion of each particular Judge."

The majority of the Law Commission were, however, satisfied that they had, by the words as they were, taken proper precaution against too wide a use of the word "disaffection." The explanation, in their opinion, pretty well guided and limited the discretion of the Judge.

If so happened, however, that even this clause 113 was somehow omitted from the Penal Code when it was actually enacted in 1860. If a C. I. D. had been then in existence it might have reported, when called upon for a report, that this omission of the single provision against sedition, in the process of a draft code being copied and enacted into a *Pucca* Code, was due to the corrupt working of the emissaries belonging to the secret service in the pay of the Bengali or Deccani sedition-mongers. But the omission was a fact, howsoever unaccountable. Ten years later, the omission was noticed and made good by the enactment of section 124A of the Penal Code which purported to embody substantially the same provision as was contained in clause 113 of Macaulay's draft. This amendment of the Code was hotly debated and contested on the ground that the times were peaceful and the people thoroughly loyal. The opponents also urged that the word *disaffection* was a very vague word; and

might lead to malicious prosecutions ; also that the enactment would curtail the liberty of the press. The Hon. Mr. ( afterwards Sir) James Fitz-James Stephen, the then Law member of the Government of India, tried at great length to reply to these objections. Although the proposed amendment of the Penal Code was eventually carried, the admissions made and the assurances given by the Law member at the time had a great value as indicating the real policy of Government at the time, and a peculiar and accentuated value at this distance of time, in view of the changes which the law of sedition has since undergone both in the interpretation of the old and the enactment of the new words of penal provision.

We have no space to set out the whole body of the observations made in self-defence, by Hon. Mr. Fitz-James Stephen. But the gist of it all was as follows :—

" Let it be shown that the matter complained of was not consistent with a disposition to obey the law ; let it be shown that it was consistent only with a disposition to resist the law by force and it did fall under this section. Otherwise not."

" You may create disapprobation as much as you please, so long as it is consistent with a disposition to render obedience to the lawful authority of Government."

" This (Sec. 124 A) was a weapon to be used in no case except when the peace of the country was, in the opinion of those who were at the head of the Government, seriously endangered."

" The question was not whether the press ought or ought not to be free but whether it ought to be free *to excite rebellion.*"

" They might not say anything of which the obvious intention was to produce rebellion."

As explained in the light of the above qualifications and limitations as to words, and statements as to intention, the Section, which was eventually embodied in the Code as 124A ran as follows :—

" Whoever by words either spoken or intended to be read or by signs or by visible representation or otherwise, excites or attempts to excite feelings of disaffection towards the Government established by law in British India shall be punished with transportation for life or for any term &c.

**Explanation**—Such a disapprobation of the measures of Government as is compatible with a disposition to tender obedience to the lawful authority of the Government against unlawful attempts to subvert or resist that authority is not disaffection. Therefore the

making of comments on the measures of Government with the intention of exciting *only this species of disapprobation* is not an offence within this clause."

For 21 years since its enactment, there was no occasion for the use of this provision of the law of sedition. The *Bangabosi* case in 1891 was the first trial for sedition in India. In that case Sir Comer Petheram, Chief Justice of the Calcutta High Court, interpreted the words *disaffection* only as originally intended by Macaulay and Fitz James Stephen. His Lordship observed:—

"Disaffection means a feeling contrary to affection, in other words dislike or hatred."

"If a person uses words calculated to create in the minds of the persons to whom they are addressed a disposition not to obey the lawful authority of the Government or to subvert or to resist that authority, if and when occasion would arise, and if he does so with the intention of creating such a disposition in his hearers, or readers he will be guilty of the offence though no disturbance is brought about or any feeling of disaffection is produced by him."

The Tilak case in 1897 was the second case under section 124A. In that case the presiding Judge, Mr. Strachey, introduced for the first time a cycle of mutations in the meaning of the particular word "disaffection" and the general spirit of the law of sedition, which cycle has apparently not yet wholly terminated. Mr. Strachey interpreted the word dis-affection as meaning "want of affection"—a negative instead of a positive state of mind viz. ill-will towards Government.

On an application being made on behalf of Mr. Tilak to the Full Bench of the Bombay High Court, for leave to appeal to the Privy Council on the ground of misdirection of the charge to the Jury, as contained, among other things, in the misinterpretation of the word "disaffection," their Lordships admitted that Mr. Justice Strachey had used the words "want of affection," and also that the phrase would have misled the Jury if it had stood alone. But they specially pleaded that taken in connection with the context it could not have misled the Jury. The summing up of the Judge, they said, would have been absolutely correct, if Mr. Justice Strachey had used the very words used by C. J. Sir Comer Petheram before viz. "contrary to affection" instead of "absence of affection." But "taken in connection with the context it was clear that by absence of affection the Judge did not mean the negation of affection but some active sentiment on the other side." For that reason their Lordships refused to certify the case as a fit one to go in appeal to the Privy Council.

The case was all the same actually taken in appeal to the Privy Council for Mr. Tilak independently, but the appeal was rejected on the ground of there being no such substantial misdirection of the charge to the Jury as to warrant a reversal of the Judgment of conviction.

The law of sedition as contained in 124A. I.P.C. had, however, a more busy and a more lively time of it during the course of the same year. Quite a number of cases of prosecution for sedition cropped up apace, thanks to the combined energy of the Political and the Legal departments of Government; and amusing was the welter of the differences of opinion in which the different High Courts in India found or landed themselves in while honestly trying to correctly interpret the same words of the same section. The Allahabad High Court e. g. followed Mr. Strachey in one case, but in another case Ranade and Parsons J. J. substantially differed from him.

Taking advantage of this state of things Government decided to widen the sedition-law. The Legislature naturally comes in to clear up meanings and standardise interpretations. But this legitimate function can, as was seen in this particular case, be abused for another and an ulterior purpose. In December 1897 the Hon. Mr. Chalmers, the then Law-Member of the Government of India introduced a Bill in the Supreme Legislative Council, for amending Section 124A. I. P. C. The aim and object of the amendment professed to be to clear up ambiguities in the meaning of the old section and to bring it in still greater conformity with the Criminal Law of England on the subject. This was sought to be done by wording the section as follows:—

"Whoever...brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards Her Majesty or the Government...may be punished &c."

Expl. I The expression Disaffection includes disloyalty and all feelings of enmity or ill-will.

Expl. II Comments on the measures of Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence.

In the Select Committee the original wording "Government established by law" was restored in order to bring it in conformity with the wording of 1870. The words "(all feelings) of ill-will" were omitted as too wide and vague. The Committee observed that "it is only when feelings of ill-will amount to disloyalty or enmity that they

constitute disaffection. *A certain amount of ill-will is compatible with genuine loyalty.*" And the amendment so far modified was eventually passed.

The net result, however, was highly reactionary. Far from the definition of disaffection being made more clear than before, it only widened the connotation of that word by the addition of such strong words as hatred or contempt as explaining rather than limiting or modifying the sense of the word disaffection. Whereas a feeling of disaffection should have been explained or even defined as a "feeling incompatible with a disposition to render obedience to the awful authority of Government," the new amendment of the section unnecessarily imported such misleading and vague words as hatred, contempt and enmity.

Secondly, the amendment carried away the Indian law of sedition further than before from the English law on the same subject. And for the following reasons according to the English Law.—

(1) The words used must be *calculated* to disturb the tranquillity of the state or lead people to subvert Government or the law.

(2) They must be used with the *intention* of disturbing such tranquillity &c. The likelihood and the intention of the use of force is thus an essential element of the offence in the English Law.

It has fallen to the lot of Mr. B. G. Tilak, more than any body else in India, to tempt and test the law of sedition, and his contributions to the records of state trials in British India, though unwilling, have been of much importance. The present was his third trial for sedition; and though Mr. Tilak has came out successful only this time his defences on all the three occasions laid daring hands on the very foundations of the law of sedition as embedded in particular words. It is now notorious that in his first prosecution in 1897 the Jury could not be relied upon convicting him unless the learned Judge, presiding over the sessions, actually over-stretched the natural meaning of certain words of section 124A. Mr. Justice Strachey himself admitted that "absence of affection" was not a fortunate phrase to use, in explaining the meaning of the word 'disaffection.' (22 Bom. p. 148). And though Mr. Tilak's conviction based on Such an interpretation was allowed to stand, so far as the law itself was concerned, Farran C. J. ruled later on that "disaffection" meant a positive feeling implying political alienation or discontent, a spirit of disloyalty to Government or existing authority (22 Bom. p. 126).

The amended law of sedition was tested on Mr. Tilak in 1908 when he was convicted by a Jury, divided as 6 to 3, for certain arti-

cles in the Kesari newspaper. Mr. Tilak in his defence laid great stress on the point that as there was no proof of excitement or disturbance actually stirred up by himself, he could be charged only with an attempt to excite disaffection; but a criminal attempt presupposes a criminal intention which the prosecution failed to prove against him. The articles in question were written mainly as a reply in controversy to Anglo-Indian and other papers, who held the newspapers and the politicians in the country responsible for the inauguration of an era of bombs and violence in India, whereas Government were really responsible for the same by reason of their mal-administration, and that the only real and abiding remedy was the granting of substantial political reforms. The presiding Judge, however, gave the go-by almost completely to the discussion of law, and directed the Jury to hold the accused guilty if the words actually used were likely to cause disaffection.

Once more was Mr. Tilak destined to be a touch-stone for testing the law of sedition, as embodied in the present section 124A. And the proceedings contained in the present pamphlet are the proceedings in that case. As the proceedings in Court, the addresses by Counsel, and the Judgments of the District Magistrate and the High Court are given here in extenso, we need not recount any facts in connection with the case. But it is necessary to make a few observations bearing on the peculiar feature of success which distinguishes the third Tilak trial from the first two.

Those who witnessed the Tilak trial in 1908 and those who were present at the proceedings against him last week could not but feel the great contrast between the two situations. The Government were evidently in a terrible mood then; and the close and stuffy atmosphere itself in the dingy room of the High Court was surcharged with emotional electricity. We wonder if the imagination of some people did not show them bombs hanging from the ceiling or pistols stuck up on the walls of the Court House! The friends of Mr. Tilak could see nothing but the unseen Andaman Islands, or the penal settlement of Port Blair. People who had not read the Penal Code might have even thought that on conviction Mr. Tilak might be blown off from the canon's mouth. It was a time when the habitually merry became serious, and the habitually serious dazed and awe-stricken.

It was all changed this time. The Day's choice of the method made by Government, of proceeding against Mr. Tilak, at one

brought down the thermometre of feeling to the temperate point. The worst consequences would be but the mildest ever experienced by Mr. Tilak at the hands of Government. The proceedings being of a preventive nature, conviction might, on the other hand, be far easier to secure than if it were a case of a regular prosecution. It is the accused that should get the benefit of doubt; here the cast of the proceedings was such that the Prosecution itself might claim that much needed benefit. One good turn brings another; and if Government showed leniency to Mr. Tilak in his old age, why should not the people show similar leniency to Government, in their hour of need, in judging them for the error of taking action in a manifestly weak cause. It may be egregious but at any rate not scandalous.

Well, proceeding to consider the Judgments in this case, the readers will perceive that the District Magistrate has fallen into the same mistake as Mr. Justice Stachey 19 years ago, viz. holding disaffection as equivalent merely to "absence of affection." Apparently District Magistrates in India, like the Bourbones of France, learn nothing and forget nothing; nothing, that is, convenient to them as agents and instruments of the executive Government—though called upon to apply their mind to a case before them in a strictly judicial spirit. The Poona District Magistrate curiously enough remembered only the misinterpretation, by Mr. Justice Strachey, of the word Disaffection, though Mr. Strachey had himself afterwards withdrawn the unfortunate interpretation and a full Bench of the Court apologetically discounted it away.

As for the High Court Judgment it is obvious that their Lordships treated the centre of gravity of the whole matter as lying on the side of facts rather than that of law. In fact Batchelor J. says "In my opinion the application does not give rise to any real question of law." Their Lordships contented themselves with the conclusion that as a matter of fact the speeches of Mr. Tilak, taken as a whole, did not amount to sedition, though an expression here or there may be harsh, discourteous or insulting in a personal sense. Similarly Shah J. contented himself with saying that whether in a particular case the condemnation of a service under Government was sufficient to excite hatred, contempt or disaffection towards Government must depend upon the nature of the criticism, the position of the service and all the circumstances of the case, and that in the circumstances of this particular case his lordship had no doubt that the speeches of Mr. Tilak taken together and as a whole did not overstep the limit of law.

Mr. Tilak has thus scored a personal triumph upon Government, who could not resist the temptation, in a moment of irritation, of rushing into the Law Court to silence him once more by the use of a familiar weapon, viz. conviction for sedition. The facts of the situation, as we have pointed out above, this time weighed in his favour. But the position with regard to the Law of Sedition in India is by no means cheerful. And in view of the growing need for political agitation in this country, we cannot afford to relax, notwithstanding Mr. Tilak's success in this particular case, our efforts to get the law of sedition so modified as to ensure, beyond all doubt, the liberty of the expression of political opinion, provided always that there is on the part of the writer or speaker no attempt to excite the use of unlawful force or the subversion of Government. And in fact it is only with this object of pointedly bringing to the attention of our readers the perilous situation in which political speakers and writers stand at present in view of the existing law of sedition, that we have traced at some length the history of that law since the beginning of codified legislation in this country.

A careful perusal of that history will show that whereas we ought to have in India the same law of sedition as obtains in England, and whereas the drafting of the early legislators in India did professedly and unmistakably point to bringing about this very result, a reactionary tendency has set in in the meantime; and we have now actually a law of sedition which imposes uncertain but certainly very rigorous limitations upon political discussion or propaganda. We have already referred in passing to the distinction between the English and the Indian Law of Sedition. But we shall do so here at some length in order to point out the salient features of that distinction, which in their turn may suggest the lines of the needed reform.

Sedition, under the old English Common Law Statutes, fell under the general heading Treason. It was nowhere clearly defined but was classed as a contempt and misprison against the King and the Government, and it could be committed in a variety of ways, some of them even very fanciful, e. g. a curse inwardly uttered against the King. Sedition might indeed under special circumstances be exalted to Treason. But ordinarily it was supposed to be of two kinds (1) Popular commotion, obstruction of law, or breach of public tranquillity not directed against the constitution, nor amounting to Treason; and (2) Mere Libel with of course a sedition intention.

Sections 901 and 902 of Lord Halsbury's Laws of England State the principles of the present law obtaining in England on the subject. Section 901 deals with Seditious Conspiracy, and 902 with Seditious Libel. We shall quote only the latter as enough for the present purpose. It runs as follows :—

"Every person is guilty of the Common Law misdemeanour of Seditious Libel, if with *Seditious intention* he either speaks and publishes any words or publishes a libel.

"The freest public discussion, comment, criticism and censure, either at meetings or in the press in relation to all political or party questions, all public acts of the Crown, all acts of the Government, and all proceedings of Courts of Justice are permissible; and no narrow construction is to be put upon the expressions used in such a discussion &c. But the criticism and censure must be without malignity and must not impute corrupt or malicious motives.

"If the words, however defamatory, were not spoken with a seditious intention, the defendant is not guilty, such an intention being the essence of the offence. But the character of the words may form irresistible evidence of the nature of the intention.

These principles are authoritatively stated in Stephen's Digest of the Criminal Law of England. And the *original* section 124A of the Indian Penal Code naturally bears a resemblance to the provisions of the English Law of Sedition, because the author of the English Digest was also the framer of section 124A as enacted in India in 1870. This resemblance is noted by Mr. Justice Ranade in the case of R. V. S. Ramchandra Narayan I. L. R. 22 Bom. p. 152.

The points in favour of the English Law will be apparent from the following :—

(1) In England sedition is not an offence if the words are only orally uttered or spoken. Publication of these words is essential. This is not a merely technical advantage, for it gives spontaneous utterances, as in the case of speeches or lectures, the protection which they deserve.

(2) In England the truth of the words *published* can be a justification, unless they refer to the King personally. This is a substantial advantage because a seditious libel must first of all be a libel ; i. e. a *false* statement, so that if the words complained of could be proved to be true, one essential element in the offence would disappear. In India truth is no justification if the words have a tendency to excite certain feelings against Government.

(3) In England seditious *intention* is absolutely necessary ; and it follows that the prosecution must bear the burden of proving it, though it could take the assistance in this respect, to a certain extent, from the character of the words. In the leading case of R. V. Burns on this subject Mr. Justice Cave has authoritatively laid down that though a man may be presumed to intend the natural consequences of his action, yet "it is very proper for a Jury to infer if there is nothing to show to the contrary. If it is shown from other circumstances that he did not actually intend them, I do not see how you can ask a jury to act upon what has become a fiction with regard to this matter." Stephen J. has stated clearly that it is one thing to write or speak with a distinct intention to produce disturbances, and another to write or speak violently and recklessly matter likely to produce disturbance. The Jury accordingly returned a verdict of not guilty. And we may as well mention in this connection that Stephen J. who laid down this law, and who introduced the original section 124A in the Penal Code is considered the greatest authority in England upon Criminal Law. In the words of Justico Cave, "Justice Stephen possessed undoubtedly a greater knowledge of Criminal Law than any other judge who sat upon the Bench."

(4) In England words uttered must be *calculated to produce unlawful use of force*. In R. V. Collins it has been held that nothing short of direct incitement to disorder and violence is a seditious libel. In the case of R. V. O'Connell, even the fact that "meetings had been held for the purpose of obtaining changes in the Government and the constitution of the realm, by the means of the exhibition and demonstration of great physical force" was not held to be a good ground for conviction for sedition. So also in the case of R. V. Sullivan and Piggot, Fitzgerald J. observed : "the indictment for sedition must state *acts*, the overt or open acts, by which seditious intent was evidenced. In short from 1820 to 1886 the English rulings are entirely unanimous and consistent in holding that the alleged seditious words must be *calculated to disturb the tranquillity and incite to use of force, or to subvert Government*.

According to the present section 124A the prosecution need not show criminal intent but only a particular objective character of the words used, even with reference to surrounding circumstances which may have been far from the mind of the accused.

(5) In England the offence of seditious libel can be committed only with reference to Government established by law, much the

same as in India. But there a much more liberal interpretation seems to be put upon the words than it is done in India. In the present case against Mr. Tilak a good deal of discussion has taken place as to the exact meaning to be attached to that phrase. But even the High Court, deciding the case as it did upon facts rather than on law, has left the interpretation of the phrase almost where it was before. In the case of the *Morning Chronicle* in England which attacked the system of Government and demanded a change in it, Lord Ellenborough directed the jury to put an innocent interpretation upon it. "A total change of system" did not mean, it was held, "Subversion of Government" and therefore no sedition. But it still remains doubtful in India whether departments of Government or even particular services, could be attacked and freely criticised, lest they might be held to be the Government established in India. Even a policeman or a village Talati may, in that view, claim the same privilege of immunity from criticism as the Viceroy himself, on the ground that he is as much an integral part of the Government established by law as the other.

(6) Perhaps the most important difference between the condition of things in England and in India with regard to the law of sedition lies in the fact that, while in England the 1<sup>st</sup> word as to the guilt or the innocence of a person charged with sedition remains with a *Jury*, that in India remains with a Judge, who may be, according to the amendment of the Criminal Law in 1898, even a Magistrate. The Jury has always been a great bulwark of strength to public speakers and writers in England; and under the same conditions it is likely to be so also in India. Even in England the right of trial by Jury could not be successfully asserted for a long time. The censorship of opinion was regarded as part of the prerogative of the Crown; and while printing was restricted by patents and monopolies and stamp duties, speech was restricted by an elastic and uncertain law of sedition which vaguely made "Speaking ill of Government a crime." No Grand Jury stood between the Attorney General and the defendants, and even the Courts were ready instruments of the Government. This position had to be fought inch by inch, and bold martyrs among the men of the press and the platform, aided by the Juries themselves in the box, put up a vigorous and unrelenting fight till, by Mr. Fox's Libel Act of 1792, it was declared that the Jury had the exclusive right to pronounce upon the guilt or the innocence of an alleged seditious libel.

In India we are still under the thralldom of individual Judges and even Magistrates, and the public as such have no voice whatever in standardising the liberty of opinion, as they would have if cases of sedition were made exclusively triable by Juries.

The amendment of the Criminal Law, as made in 1898 at the instance of the Hon. Mr. Chalmers, thus brings down the liberty of political opinion in India to its narrowest dimensions, under pressure from all sides, viz. definition of the offence as well as the machinery of administration. Lord Lytton while inaugurating the Press Law in 1878 claimed that it was a mild substitute for a law of sedition. By 1898 the Press Law was no more; and the Hon. Mr. Chalmers pleaded in support of his amendment of the Penal Code that Government did not want to re-enact a Press Law for India. But thanks to the triumph of the spirit of reaction in India, we have now the combined blessings of both the amended Penal Code and the Press Law together, lending support to each other. Professing to give us a Criminal Law like that of England, Mr. Chalmers has given us the fullest dose of the poison of the Law of Sedition, withholding from us its antedote, viz. trial by Jury. It is obvious, therefore, that a suitable amendment of the Criminal Law of India must be put at the top of the schedule of the political reforms that we shall demand at the end of the war. For with the liberty of the expression of political opinion, we can, even in India, achieve the same results as in England with regard to the reform of our administration; or, to quote Sheridan at the end, as we have done in the beginning, we shall meet the Government undismayed, and lay it beneath the ruins of abuses which the bureaucratic form of government is meant to shelter.

Poona,  
15-12-1916. }

N. C. KELKAR.

# THE TILAK CASE.

## The Magisterial Proceedings.

On Saturday, the 22nd July 1916 in the Court of Mr. G. W. Hatch, I. C. S., District Magistrate of Poona, Mr. James Adolphus Guider, Deputy Inspector-General of Police, C. I. D., lodged the following information against Mr. B. G. Tilak under Section 108 Criminal Procedure Code.

### The Information.

(Exhibit No. 1.)

In the Court of District Magistrate, Poona.

JAMES ADOLPHUS GUIDER,

Deputy Inspector-General of Police, C. I. D.

*Versus.*

BAL GANGADHAR TILAK, B. A., LL. B., residing at Poona.

Information under Section 108, O. P. C.

I, the above said James Adolphus Guider, do hereby lay the following information:—

1. That the said Bal Gangadhar Tilak having previous convictions on charges of sedition, is orally disseminating as stated below, seditious matter, i. e., matter the publication of which is punishable under section 124A I. P. C.
2. That he delivered speeches on Home Rule,
  - (a) At Belgaum on the evening of the 1st May 1916 on the termination of the meeting held in connection with the Historical Research Association,
  - (b) At Ahmednagar on the evening of 31st May 1916 in the open space behind the Kapad Bazar in reply to an address presented to him by the merchants of the Kapad Bazar,
  - (c) At Ahmednagar again on the 1st June 1916 in the Old Kapad Bazar, at an open-air mass meeting, a

all of which he brought, or attempted to bring into hatred or contempt, or excited, or attempted to excite, disaffection towards His Majesty, or the Government established by law in British India.

3. That it is feared that he will continue to do the same
4. Copies of speeches referred to in para 2 above are attached herewith as Appendix A, B & C.
5. Witness will be kept in attendance on the date of hearing.

(Sd.) S. C. Davar,  
Public Prosecutor,

{ (Sd.) J. A. Guider.

Poona : 22nd July 1916.

The Magistrate after reading the information asked Mr. Guider to make an affidavit whereupon Mr. Guider submitted it.

### Mr. Guider's Affidavit.

(Exhibit No. 2.)

James Adolphus Guider says on solemn affirmation.

The information presented by me to-day in the matter of Bal Gangadhar Tilak is correct to the best of my belief. It is based partly on information received from my subordinates, partly on records of my office, and on other sources.

I ask that a substantial security of say Rs. 50,000 be demanded. He is a man of means, he owns the *Kesari* Press and the Gaikwad Wada. He is a man of considerable influence and with wealthy friends. At the present moment his friends are collecting a sum of one lakh of rupees for presentation to him to-morrow, as a birthday gift. I ask that security should be taken for one year. I put in the 3 speeches and their translations on which I reply.

(Sd.) J. A. Guider,  
before me

(Sd.) G. W. Hatch,  
District Magistrate, Poona.

The Magistrate then issued the Preliminary Order and the summons which are given below:—

### Magistrate's Preliminary Order.

Whereas I, G. W. Hatch, District Magistrate, Poona, have received information that Bal Gangadhar Tilak who resides at Poona within the limits of my jurisdiction disseminates seditious matter, in witness of which reports of speeches delivered by him at Belgaum on 1st May 1916, and at Ahmednagar on 31st May and 1st June 1916, on the subject of Home Rule have been produced before me :—

I hereby require the said Bal Gangadhar Tilak to show cause why he should not be ordered to execute a bond for a sum of Rs. 20,000 with two sureties each in a sum of Rs. 10,000 for his good behaviour for a period of one year (section 108, 112 Criminal Procedure Code). Poona, 22-7-1916.

(Sd.) G. W. Hatch,  
District Magistrate, Poona.

### The Summons.

**Summons on information of a Probable Breach of the Peace.**

( SECTION 114 OF C. P. C. )

To,

BAL GANGADHAR TILAK,

NARAYAN PETH, POONA CITY.

Whereas it has been made to appear to me by a credible information that you disseminate seditious matter, you are hereby required to attend in person at the office of the District Magistrate, Poona, on the 28th day of July 1916 at 12 noon to show cause why you should not be required to enter into a bond for Rs. 20,000 and also to give security by the bond of two sureties each in the sum of Rs. 10,000 that you will keep the peace for the term of one year.

Given under my hand and the seal of the Court this 22nd day of July 1916.

(Sd.) G. W. Hatch,

District Magistrate, Poona.

The notice and the summons were served on Mr. Tilak by Mr. Boyd, the District Superintendent of Police, Poona, at Mr. Tilak's residence in the Narayan Peth at about 10-30 A.M. on 23rd July 1916—which happened to be Mr. Tilak's 61st birthday—when he was sitting amongst his numerous friends who had been there to offer their congratulations to him.

On 25th July 1916 Mr. S. K. Damle, B.A. LL.B. pleader presented an application on behalf of Mr. Tilak for postponement and for the copies of the information, affidavit and the translations of speeches of Mr. Tilak, which formed the subject matter of the complaint. His request was granted and the case was postponed till 2nd August and copies were ordered to be supplied to him.

On 2nd August 1916 Khan Bahadur S. C. Davar appeared for Government Mr. S. K. Damle for Mr. Tilak. After hearing the pleaders the case was again postponed till 7th August 1916 at 12 noon.

### First Day's Proceedings.

*Monday, 7th August 1916.*

(Before Mr. G. W. Hatch Esq. I. C. S., District Magistrate, Poona.)

In pursuance of the notice served on him Mr. Bal Ganga-dhar Tilak appeared in person in the Court of the District Magistrate Poona at 12 noon precisely.

Mr. B. D. Binning, Bar.-at-Law assisted by M. N. M. Patwardhan Bar-at-law and instructed by Khan Bahadur S. C. Davar, Government Pleader appeared for the crown. Mr. Tilak was defended by the Hon'ble Mr. Mahomed Ali Jinnah, Bar.-at-Law, Mr. D. S. Erulkar, Bar.-at-Law assisted by Messrs. R. P. Karandikar, High Court Pleader, S. R. Bakhle, B.A. LL.B. High Court Pleader, H. L. Patil, S. K. Damle, B.A. LL.B., N. C. Kelkar, B.A. LL.B. and S. G. Lele, District Pleaders.

At the outset Mr. Binning proposed to call evidence to prove the speeches which were the subject matter of the charge.

Mr. Jinnah suggested that the proper course would be to treat the case as a warrant case and that the prosecution should state what their case was before calling evidence.

Mr. Binning said he had no objection to making a brief statement. He did not propose then to read the speeches and make comments. But he said the allegations were to the following effect :—

1. That the British Government keeps India in a continual state of bondage or slavery.
2. That the British Government do not do their duty by India; that they administer it for the benefit of England or Great Britain.
3. That the British Government are not a real Government because they consider themselves insulted when told of things that have not been done and for the doing of which a desire is not now apparent.
4. That the British Government is full of self-conceit and think, anything it does perfect.
5. That the main object of the British Government and its officials is to fill their 'aching bellies'.
6. That intervening Collectors, Commissioners and other people are not wanted.
7. That all British rule except a mere nominal sovereignty is to be removed at an early moment.
8. That the British have in the course of 50 years failed to educate India so that it is fit to rule itself.
9. That they, the British, are unfit to rule and must go.
10. That the priests of the deity i. e. the British Government—the officials—must be removed because this priest or that priest does not do good to the people.
11. That responsible officials in India keep back from the King Emperor the full facts, hence justice is not done.
12. That the only reason the Viceroy and other officials in India get high pay is because India has to pay for them.
13. That the bureaucracy's first idea is to see that their pay is secured.

14. That the present is a fit time of agitation for the getting of Home Rule.
15. That Government consider this agitation bad because they will be losers by it.
16. That all through the speeches a strong distinction is made between the administration in India and the Sovereign's wishes.
17. That under the Company's regime a letter used to come to the Governor General as follows :—"So much profit must be made this year; realise it and send it to us"; this was the administration; the people's good was not considered; this was not a good sort of administration; that Parliament under Queen Victoria did not approve this system, but that now once more the administration of the country is in accordance with the Company's system..
18. That nobody in India told the Government and its servants to come here; that they are not wanted.
19. That the Government is not generous and wise and will not listen to what you have to say and redress your grievances.
20. That its sight is so affected as not to see the figures in its own reports.
21. That this Government is no Government at all because it evades its responsibilities.
22. That the chief question is whether a certain nation—India to wit—is to be treated like beasts.
23. That if people stand in the road of this Home Rule movement they must be pushed out of the way by giving them a push.

Such remarks made to such audience by a person in the position of the respondent are certain to cause disaffection to the Government of this country. They are made under the guise but without the substance of a real agitation to obtain Home Rule for India which is a cloak for the malice of the maker.

Mr. Binning then began to examine the Prosecution witnesses. Mr. Trimbak Bhikaji Datre, Sub-Inspector, C. I. D was the first witness called.

### Trimbak Bhikaji Datre.

#### *Examination in Chief.*

Questioned by Mr. Binning he said :—

I was deputed to attend the 18th Provincial Conference at Belgaum in May last.

On the first May at 6 p.m. I attended a lecture delivered by Mr. Tilak in the tent of the Conference. I attended the Conference and the meeting under the orders of Mr. Guider. I took down the speeches in Marathi short-hand. My special work now is to take down speeches in Marathi short-hand. I have done this work for the last six years. I made short-hand notes of Mr. Tilak's speech at Belgaum. (short-hand notes put in. Ex. A.)

Mr. Jinnah—They can only go in as corroborative evidence. They cannot go in as a speech delivered by Mr. Tilak, but they can go in—only to show that short-hand notes of the speeches were taken.

The Magistrate made a note of Mr. Jinnah's objection.

Q.—Did you put your short-hand notes into Marathi transcript? A.—Yes, I turned into long-hand with Mr. Somnath Shanker Deshpande, Sub-Inspector of Police. Sub-Inspector Deshpande was present at the lecture.

Q.—Is this a correct transcription from your short-hand notes? A.—Yes. It correctly represents what I heard Mr. Tilak say. [Transcript put in as Ex. B.] At the time I took the short-hand notes, I was about four or five paces from Mr. Tilak. There was a large crowd at Belgaum-lecture delivered by Mr. Tilak. People of all kinds were there.

On the 31st May 1916 I attended a lecture delivered by Mr. Tilak at Almednagar in an open space at the back of the cloth market at 7 p. m. All classes of people were there. I made short-hand notes of that lecture and I produce them. (Put in

**Ex. C.)** I was about four or five paces from Mr. Tilak when he made his speech.

Witness here put in his transcript of the speech, and said it was a correct transcript. [Ex. D.]

**Q.—**Did you further attend a lecture, delivered by Mr. Tilak at Ahmednagar on the 1st June 1915? **A.—**Yes, I made short-hand notes of what Mr. Tilak said.

[Put in Ex. E. and his transcript as Ex. F.]

Mr. Jinnah reserved his cross examination.

**Mr. Anant Krishna Thakur, B. A.,** was the next witness. Questioned by Mr. Binning he said :

### Anant Krishna Thakur.

#### *Examination in Chief.*

I am a B. A. of the Bombay University. I am employed in the Oriental Translator's Office for over ten years. I read the Marathi documents shown to me. I did not actually translate the documents but compared them with the English translated versions I hold in my hand. The translations are correct.

**Mr. Jinnah.**—I should like to have the actual Translation here. I don't mind the documents going in, but I should like to know how the original Translator came to adopt certain terms. I object to the translations going in without the person who made the translations being called.

**Mr. Binning**—I do not propose to call the original Translator. This witness's evidence is sufficient for my purpose.

Mr. Jinnah's objection was noted and translations put in as Exs. G. H. I.

Mr. Jinnah reserved cross examination. Mr. Binning tendered the record of Mr. Tilak's previous convictions.

Mr. Jinnah objected to the "previous convictions" being admitted at that stage of the proceedings. He was startled to find Mr. Binning tendering the "previous convictions." He contended that to put them at that stage would certainly prejudice the Magistrate's mind. This was a special case under Section 108 C. P. C.

The Magistrate said that what he had in his mind was I. L. R. 11 Bom. (Mr. Khare's case).

Mr. Binning quoted 32 I. L. R. P. 13 in support of his contention that the "previous convictions" were admissible.

Mr. Jinnah: To allow previous convictions to join at this stage is to rely upon the judgment of other persons.

The Magistrate said his order was that Mr. Tilak's "previous convictions" be admitted.

The record stated that on the first occasion Mr. Tilak was sentenced to eighteen months imprisonment and on the second to three years' imprisonment on each of the two charges and to pay a fine of Rs. 1,000.

Mr. Jinnah said the fine had been remitted by the Government.

Mr. Binning said he had no objection to the fine being dropped.

Mr. Binning here closed his case.

#### Mr. Jinnah's requests.

Mr. Jinnah said: Both in fairness to the Court and to the respondent Mr. Binning ought to say what were the passages in the three speeches which came within Section 124 A. Without that the Court could not say that it was satisfied that a *prima facie* case had been made out and call upon him to enter upon his defence. Again, without that it was not possible for the defence to meet the charge. The information did not show on what passages the prosecution relied.

The Magistrate observed that according to the information they relied on the whole speech.

Mr. Jinnah submitted it was not shown which passage were seditious.

Mr. Binning said he was not going to rely solely on individual passages, but he would rely upon the whole speech.

The Magistrate said he thought the prosecution were justified in saying that they would not be tied down to such and such sentence. Mr. Binning had given indications of his

case enumerated the points on which he intended to ask the Court to confirm the rule.

Mr. Jinnah said that that was not sufficient. His contention was that Mr. Binning should point out passages in support of each of the allegations he had put forward. Taking for instance the first point that Mr. Tilak had said that the British Government in India kept India in a continuous bondage, he submitted that Mr. Binning should at least give the worst possible part of the speech to support that proposition. In the absence of that, supposing he were to say that there was not a single passage in the speech to support that point, how would the Court decide it?

Mr. Binning then pointed out the passages on which he relied and added that apart from those passages he would rely on the general effect of the speech.

At this stage Mr. Jinnah applied for a postponement to enable the defence to inspect the Marathi short-hand notes of the first witness.

Mr. Binning did not object, and the case was adjourned till Tuesday, at 12-30 p. m.

The Magistrate ordered that opportunity should be given to the defence to examine the short-hand note-books in the presence of the representative of the prosecutions and also of an official of the Court.

## The Second Day's Proceedings.

*Tuesday 8th August 1916.*

Sub-Inspector Trimbak Bhikaji Datre of C. I. D. was called by Mr. Jinnah for cross examination. He deposed as follows :—

These are the short-hand notes of the first lecture Ex. A I can take down 110 to 120 words per minute in short hand. Ordinary speakers can speak 110 words to a minute. Tilak speaks 70, 80 or 90 words to a minute. I took down everything he said, there might be some omissions owing to

pencil requiring repairs. I don't remember whether my pencil had to be sharpened during Tilak's speech. There was one Deshpande also taking notes; he is a Police Sub-Inspector. He is a short-hand writer. There was no other. The short-hand notes produced (A. C. E.) are all in my hand-writing. Everything in Ex. A concerning Tilak's speech, was taken down at the time of the meeting. Deshpande also took short-hand notes. We prepared the transcript together. The transcript was prepared from both short-hand notes. There may be some words in his notes that are not in mine. How can there be a mistake when I take short-hand notes? No sentence was omitted; some words may have been omitted. On page 101 of my note-book I have omitted 'kahitikanee' as it was repeated frequently but I have made a mark to show that these words occurred at the place. There is no possibility of my mistaking 'Raj' and 'rajya' when used by the speaker. I don't think it is possible to confuse 'Rajya-vyavastha' and 'raj-vyavastha' I personally make no difference in the short-hand signs for 'raj' and 'Rajya.' Deshpande makes a difference between 'raj' and 'Rajya.' I am in the O. I. D. My pay is Rs. 70 p. m. For the last five or six years I have been deputed to take notes of speeches. This transcription was completed in some 8 or 9 days. I put it before Mr. Healy. Some portion of the transcript is in my hand-writing, some in Deshpande's.

Re-examined by Mr. Binning.

I have no other work except making short-hand notes, and transcripts. On the whole this keeps me busy throughout the year; sometimes more and sometimes less. Pages 41 to 46 of the first speech are in my hand-writing.

Mr. Jinnah then called Mr. Anant Krishna Thakur, B. A., for cross examination.

Q.—“The Sovereign's policy is in accordance with the Trading Company's policy.” Does not Sovereign's policy mean the State policy? A.—It does not mean the State policy, but the Sovereign's personal policy.

The Magistrate said, perhaps Mr. Tilak used the word (Rajyadhoran) and the reporter took it down Rajdhoran. M Jinnah said that was exactly his point.

On page 65 of my transcript I have:—"We have to go out by giving him a push." The verb in this sentence is in the future-present tense.

Q.—Now is not this the correct translation?—"we have to go by giving him a push." A.—No.

Q.—Will you explain to the Court what you mean in Marathi by "future present tense"? A.—present intention of future thing.

Q.—"Future thing" in this sentence means "intention" does it not? A.—The "present intention is first to give a push and then go out."

Q.—Does not the translation really mean "may have"? A.—There would be no sense of possibility in that.

Q.—Do you understand what this sentence we are discussing means? A.—Yes.

Q.—What is the meaning of the word Sirkar? A.—Government. Any other meaning would depend upon the context.

Q.—Is there a Marathi word for bureaucracy? A.—The word in Marathi would mean, as in current use, official class. I do not know if there is any other expression in Marathi which conveys the meaning of the word bureaucracy.

Q.—Now you see that the word Sirkar is a comprehensive term in Marathi. Does it not apply to various other things such as a Judicial Court? A.—By itself it would not be wrong to call a Judicial Court, Sirkar.

Q.—Would the word Sirkar be applicable to the Collector? A.—It would be applicable if used in connection with Collector's office. The term is used in connection with a Government Magistracy or Civil authority.

Q.—Look at your transcript, page 25. "How do you translate the word "ghamend?" Do you rely upon any dictionary for that? A.—No, because I know the meaning.

Q.—I have Candy's dictionary with me. I put it to you, would it not mean "over-confidence?" A.—It is nearly so, reading it with the context. Q.—The word "Dhoort" means "rogue." A.—The meaning is given in Dr. Bhandarkar's first or second book of Sanskrit. But I did not look it up in dictionary for the purpose of comparing it with the transcript.

Mr. Jinnah to the Court:—

My point is that the word "rogue" is not a correct translation. It really means "cunning."

To witness—I suppose the common expression in Marathi "तुं मोठा खूर्त अहेस" means "You are a very shrewd man." A.—Yes.

Q.—"Gulamgiri" does not necessarily mean slavery? Being referred to Candy's dictionary the witness said Gulamgiri did not necessarily mean slavery. It may mean servility.

Q.—It may mean obsequiousness. A.—I don't know the word 'obsequiousness.' I don't claim to be an English scholar.

Q.—Who translated this transcript first? A.—Mr. Oka, my superior in the Oriental Translator's Office, and I compared it and passed it. Mr. Oka is in Bombay now. I saw him in Bombay about fortnight ago, and 4 or 5 days ago in Poona.

Q.—'Rajwyawasta' means the administration of the State; does it not?

Mr. Binning: Before my learned friend goes any further, I will admit the correctness of his translations, whether the translation is correct or not.

Mr. Jinnah (laughing). But I don't admit the other is right. Continuing he said: The translations accepted by Mr. Binning should be noted down by the Court without leaving any ambiguity. And if the Court is prepared to admit them, then and then only I would proceed. Mr. Binning thinks that he is at home, but I am in a court of law. I must proceed according to law.

Q.—Is the phrase used in Mr. Tilak's speech used in the same sense as the well-known proverb in Marathi जप्पायाचे

जातें पण कोठावळ्याचें पोट दुखते “The loss is the master's but the storekeeper is worrying about it?” A.—I understood it to mean that the owner bears the expense but the granary-keeper does not like it. Apte's Marathi proverbs gave the meaning as “the owner may sanction expenditure for certain things but his clerk hesitates.”

Q.—What do you mean by this passage of the translation “if the state of the administration remains as it does at present, England cannot give any rights among European Nations?” A.—There is no sense whatever in the passage.

Mr. Jinnah to witness :—Now I want you to go carefully through the three speeches and tell me wherever the word “Gulamgiri” occurs what it means, and after that I am finished with your cross-examination. Look at your transcript at the end of page 34 and read it. [Witness read it in Marathi] and then said the translation of पशुसारखे was like a beast.

Q.—Is there not a better way of translating this? Supposing I would suggest the word cattle. A.—The expression really means lower beasts like dogs or pigs or any of the lower animals. The only correct translation is “are like beasts without taking into consideration their desires, and their aspirations.” The words ‘Gura Sarakha’ mean like cattle.

Q.—What is the difference between the terms Guru and Pashu? A.:—“Guru” we call cows, and “Pashu” all other beasts. The terms are not equivalent to each other. Guru won't include “Pashu.” Man is certainly not included in the term “Pashu.” I have heard the phrase before about going to sleep when the thief came.

Q.—Do you know that after the war broke out Mr. Tilak made a declaration as to his policy and attitude towards Government? A.—I do not know that. It did not come into the Oriental Translator's Office.

With this was finished the cross-examination of Mr. Thakur subject to the general answer re the translation of the word “Gulamgiri” in the three speeches.

### SUB-INSPECTOR DATRE, CROSS EXAMINED.

Q.—How many words a minute do you take down in Marathi short-hand? A.—110-120 words. Ordinarily a speaker in Marathi could speak 110 word a minute. Mr. Tilak spoke at the rate of 70-80 or 90 words a minute.

Mr. Binning then called witness Mr. Somnath Shankar Deshpande, Sub-Inspector C. I. D. He deposed as follows:—

I am a Sub-Inspector. I attended the lecture of Mr. Tilak at Belgaum on 1st of May last, with Sub-Inspector Datre and made short-hand notes of what Mr. Tilak said. I correctly took down what I heard. I produce it. (Ex. K. & L. They were allowed to be put in on the footing as Ex. A. & C.) I was at a distance of 4-5 paces from Mr. Tilak. I took one or two pencils with me on this occasion. (Shown transcript). This is the transcript Datre and I made. I did it correctly from my short-hand notes.

### Third Day's Proceedings.

*Wednesday, 9th August 1916.*

Mr. A. K. Thakor, cross examined by Mr. Jinnah:—

I have looked through the speeches and I find ‘Gulamgiri’ translated as ‘slavery’ wherever the word occurs. I know Apte’s Sanskrit Dictionary, it is well known. ‘Pasu’ is a Sanskrit word. ‘Pasu’ may mean cattle,—it would include cattle.

Re-examined by Mr. Binning:—

Dr. Bhandarkar’s 2nd book of Sanskrit is a well-known book and used in schools. Professor Ranade’s XXth century English-Marathi Dictionary is also a well-known work. The transcript page 2 of 3rd speech shows “Gulamgiri and dasya”; “dasya” is correctly translated “bondage.”

Cross examined (by permission) by Mr. Jinnah.

“Dasya” does not mean servitude. It does not mean ‘service’. Servitude is not the common meaning of “dasya”; as the dictionary gives it may mean ‘servitude’ and ‘service’.

Sub-Inspector Somnath Deshpande, cross-examined by Mr. Jinnah, said for the last two years he had been a short-hand-writer and his pay was Rs. 70. He sometimes omitted certain words. A whole sentence could never be lost. Sometimes a sentence might be taken down wrongly, sometimes there might be omissions and wrongly-taken-down sentences in his notes. Mr. Tilak spoke about seventy to ninety words per minute.

At times there were applause and cheers in the speech. But he had heard every sentence which Mr. Tilak uttered. Cheers and applause did not interfere with him so far as his hearing was concerned, as the lecturer stopped at that time. His experience was as soon as applause stopped the speaker began. He might have attended about hundred meetings. During those he had never missed a single sentence in spite of cheering and applause. At certain places there was a difference between his short-hand notes and those of Datre. The transcription was prepared after putting both their heads together. In his notes in certain places he had made remarks "cannot make out." There was a difference between "raja" & "rajya". A listener could not make a mistake in listening to these words.

Witness was asked to write both the words on a piece of paper and Mr. Jinnah put it in and said he wanted to know whether by putting this in, his right of reply would be lost. He wanted the Magistrate's ruling.

Mr. Binning said he was not going to dispute the defence's right of replying. Mr. Jinnah need not scheme for it.

Mr. Jinnah said Mr. Binning seemed to think he was in his home. He was in Court and he wanted the Court's ruling.

The Magistrate said he would not object to Mr. Jinnah's right of reply.

Continuing witness said he transcribed the notes in two or three days.

The Court then asked Mr. Bal Gangadhar Tilak a few questions. He made a statement in reply which is given below.

Statement of the accused (taken in English).

Bal Gangadhar Tilak, 60 Brahmin, Literary writer, Poona City.

Question :—Did you at Belgaum on 1st May and at Nagar on 31st May and 1st June deliver lectures or speeches, the subject of which in your own words—was ‘swarajya.’?

Answer :—Yes on ‘Swarajya’ or ‘Home Rule.’ The notice about the lecture stated both words.

Question :—Have you read the copies of the Marathi transcript taken by your pleaders?

Answer :—Yes.

Question :—Are they correct reports of what you said.

Answer :—Not verbatim.

Question :—Are they substantially correct?

Answer :—On the whole, in general, they may be correct; but I find in certain places there are omissions and imperfections.

Question :—What was your object in delivering these lectures?

Answer :—To defend and explain Home Rule and point out the best way of obtaining it; and to exhort people to become members of the Home Rule League.

Question :—Can you explain Home Rule in a few words?

Answer :—It is given in the lectures.

Question :—Government have proceeded against you on two previous occasions for disseminating sedition?

Answer :—Yes.

Question :—You were convicted on both occasions?

Answer :—Yes

Question :—Do you wish to make any other statement?

Answer :—No; I leave it to my counsel.

(Sd.) B. G. TILAK.

Mr. Jinnah said he was not going to call any evidence.

#### MR. BINNING'S ADDRESS.

Mr. Binning then addressed the Court. He said his position was extraordinary as he did not know what was the de-

fence. As far as one could gather the defence was that certain of the words had been wrongly translated in the numerous passages in the speeches put in. But even if the corresponding meaning was put there, that would not alter the meaning of the speeches. Mr. Binning's imperfect knowledge of Marathi placed him at a disadvantage. The word "Dasya" was tried to be shown as not meaning "slavery" but by that Mr. Tilak wanted to show that India was in perpetual servitude. "Bondage" must have been the meaning of the word. "Dasya" & 'Gulamgiri' taken in conjunction with the context. The accused was always entitled to be given the benefit of the best meaning of the word. Dasya meant Service. Ranade's latest dictionary gave 'Dasya' as the meaning of Service and against the word bondage itself there was the same word in the same dictionary. In Candy's dictionary, on which the defence relied, Dasya was given as meaning servitude, service as servanthip. Apte's dictionary gave the meaning as servitude, bondage and slavery. It was remarkable that an experienced and accomplished orator like Mr. Tilak should have used a word which was so little used. Perpetual servitude was not better than slavery. "Gulamgiri" was slavery as was the meaning given in Ranade's Dictionary. Again 'Dasya' was given for 'slavery' in Ranade's Dictionary. Coming to the word 'dhurta' the defence said it meant cunning person but a cunning person was not an honourable person. Dr. Bhandarkar had given 'rogue' as the meaning of that word. The word 'ghamenda' was translated as 'overweening confidence'. There was no difference between this meaning and the one given by the prosecution. He was not going to say whether Home Rule was or was not a perfectly legitimate aspiration and subject for discussion. Whoever by words spoken attempted to bring into hatred or contempt or attempted to excite disaffection towards His Majesty or Government established by law, should be punished. That was section 121. His case was Mr. Tilak was disseminating matter which

fence. As far as one could gather the defence was that certain of the words had been wrongly translated in the numerous passages in the speeches put in. But even if the corresponding meaning was put there, that would not alter the meaning of the speeches. Mr. Binning's imperfect knowledge of Marathi placed him at a disadvantage. The word "Dasya" was tried to be shown as not meaning "slavery" but by that Mr. Tilak wanted to show that India was in perpetual servitude. "Bondage" must have been the meaning of the word. "Dasya" and "Gulamgiri" taken in conjunction with the context. The accused was always entitled to be given the benefit of the best meaning of the word. Dasya meant Service. Ranade's latest dictionary gave 'Dasya' as the meaning of Service and against the word bondage itself there was the same word in the same dictionary. In Candy's dictionary, on which the defence had relied, Dasya was given as meaning servitude, service and servanthood. Apte's dictionary gave the meaning as servitude, bondage and slavery. It was remarkable that an experienced and accomplished orator like Mr. Tilak should have used a word which was so little used. Perpetual servitude was not better than slavery. "Gulamgiri" was slavery as it was the meaning given in Ranade's Dictionary. Again 'Dasya' was given for 'slavery' in Ranade's Dictionary. Coming to the word 'dhurta' the defence said it meant cunning person but a cunning person was not an honourable person. Dr. Bhandarkar had given 'rogue' as the meaning of that word. The word 'ghamenda' was translated as 'overweening confidence' but there was no difference between this meaning and the one given by the prosecution. He was not going to say whether Home Rule was or was not a perfectly legitimate aspiration and subject for discussion. Whoever by words spoken attempted to bring into hatred or contempt or attempted to excite disaffection towards His Majesty or Government established by law, should be punished. That was section 124A. His case was Mr. Tilak was disseminating matter which was

punishable under that section and that he should find security that he would not do so for one year.

### PREVIOUS CONVICTIONS.

Continuing Mr. Binning said, the Magistrate must consider the fact that Mr. Tilak has been twice convicted under Section 124A. In spite of the fact that he had been sentenced to eighteen months,—part of which he was let off on certain conditions,—he was disseminating sedition.

Mr. Jinnah said Mr. Binning was saying that the term was remitted upon certain conditions, but surely that was not in the judgment. What business had Mr. Binning to say that Mr. Tilak had not kept the promises?

Mr. Binning admitted after some time that he (himself) was not entitled to say that. Continuing, he said Mr. Tilak was convicted a second time to six years but not deterred by that he still made speeches. They had there to deal with a man whom no amount of warning and correction would correct. He would do it again. Something must be done to stop these speeches, otherwise he would probably do worse. Counsel then went into the following cases :—

22 Bom. P. 112 ; 8 B. L. R. P. 457 ; 10 B. L. R. 866 ;  
20 All. P. 55 ; 32 Mad. P. 27 ; 34 Cal. 991.

Counsel Continued :—

When a man wrote or spoke words which caused his hearers to dislike the Government, to look with contempt upon the Government, or to hate the Government, then that man committed an offence under Section 124A. Any one was entitled to say about a particular Collector or Commissioner that he had done something wrong, but one was not entitled to say collectively about Collector or Commissioners that they had done wrong. Mr. Tilak had brought the officers of the Government into contempt. The words of the Section were, if you incited hatred or contempt or disaffection you came under the Act.

### THE SPEECHES DEALT WITH.

Coming to the speeches Mr. Binning said he did not know how it was that Home Rule was put down alongside Swarajya

in the notices as a subject of the lectures. He had read the speeches with the greatest care and attention and it seemed to him that they did not advocate any definite scheme for Swarajya or Home Rule. They contained some amusing and some dull stories which were excellent from the literary point of view, but there was no definition given on Home Rule or Swarajya. Take, for instance, the speech at Belgaum. In this Mr. Tilak made no definite or substantial statement about Home Rule or Swarajya. Counsel said the case he had to submit on behalf of the Government was that under the guise of advocating a Home Rule scheme, which did not exist, the respondent had made remarks in his speeches imputing, in the words of Sir Charles Farran, dishonest and immoral motives to the Government established in this country and that too after he had been twice punished. Mr. Binning then proceeded to read the first speech of Mr. Tilak which was delivered at Belgaum and commented upon the passages to which the prosecution took exception. This speech, counsel said, was made to a very large audience consisting of all classes of people. The speaker commenced by asking what was Swarajya and though the question was asked more than once he did not attempt to define it. In the forefront of his speech he put forward the proposition that when they began to discuss Home Rule in India they immediately put themselves in a position in which the Government were opposed.

Mr. Binning then referred to the passages in the speech which related to British officials, and in which it was alleged they were charged with being conceited and with looking at their own interests only, and observed that they were clearly calculated to make those who heard the speech to dislike the Government. As far as he knew he had no more rights in the country than Mr. Tilak had and was not entitled to do more than what Mr. Tilak was entitled to do.

Mr. Jinnah said it was an entirely incorrect statement to make. Mr. Binning possessed more rights than Mr. Tilak as the person he spoke of Counsel must confine himself to the

documents and must not make any incorrect statement. Mr. Binning :—The argument was that India was fit to govern itself, that the Government knew this perfectly well, that it would not give India power to govern itself and that it wrongly represented to the invisible Government at Home that India was not fit to govern itself. Counsel said if he were an Indian and were to listen to a speech like that, he would certainly feel a dislike for Government. Counsel asked, "could anyone make a nastier accusation against his Government in any country ?" It should be remarked that this utterance was received with cries of cheers and shame, cheers for the oratory and shame for the supposed disgraceful conduct of the Government. Then came the following passage "Does the Emperor lose anything whether the administration is carried on by a Civil Servant or by our Belvi Saheb ? The rule, still remains. The Emperor still remains. The difference would be that the white servant who was with him would be replaced by a black servant. From whom then does this opposition come ? This opposition comes from those people who are in power. It does not come from the Emperor." Counsel said when such reflections were made they always caused annoyance to Europeans.

But the last paragraph, counsel said, was pregnant with remarks which must cause disaffection against the Government. It stated "When there was the East India Company's rule in this country all matters were carried on a commercial principle. The whole attention was directed towards the question how might the Company's shareholders obtain a considerable profit. A letter used to come to the Governor-General here to this effect. 'So much profit must be paid to us this year. Realise it and send it to us.' This was the administration." The speech proceeded "The Sovereign's policy is in accordance with the trading company's policy. The administration of the kingdom is in accordance with the company's policy and in the meantime the proclamation has no effect."

#### WHAT LORD HARDINGE SAID.

After referring to some more passages in the paragraph, counsel said a wrong idea seemed to prevail that Lord Hardinge, the late Viceroy, was in favour of giving Home Rule to

India and a reference had been made in support of this to a speech made by him. Counsel said he would later on refer to it but in the meanwhile he would only say that what Lord Hardinge actually said was that there could be no objection to the Indians cherishing such ideal and to their aspiring to get it at some distant time, but he said to seek to get it now was absolutely out of place. Counsel further took exception to the following remarks. "But we do not want the State Secretary, who has been created as a son-in-law." He submitted that this was a deliberate statement suggesting that—the appointment of the man who was as the head of affairs in connection with India was—a job. Coming to the second speech, Mr. Binning said it was more abusive than the first. He quoted a passage in which, after referring to the English Government as alien, Mr. Tilak said, "What is the result of alienness. The difference between aliens and others is that the alien's point of view is alien, their thoughts are alien and their general conduct is such, that their minds are not inclined to particularly benefit those people to whom they are aliens. Alienness has to do with interests. Alienness is certainly not concerned with white and black skin. Alienness is not concerned with religion, etc. The Government is alien. He is to be considered alien, who looks only to his own benefit, to the benefit of his own race, and to the benefit of his original country. If anybody has charged the Government with being alien he has done so in the above sense." Counsel submitted that here the speaker suggested that the Government of this country were aliens, that they did not do their duty and that they only looked to the benefit of the English race. That was calculated to excite disaffection against Government. Counsel next referred to a passage in which the speaker said that the intervening Collectors, Commissioners and other people were not wanted, and added: "We are not inferior to them in point of bravery and education. We possess ability. Such being the case, why should we not get the rights? Why should the Emperor make a distinction

between his black and white subjects? Who has given such advice to the Emperor?" Counsel said the suggestion here was that the Emperor would not make such a distinction if the officials referred to, among whom were inculded Viceroys, etc. did not keep back the true facts from him. Coming to another passage in which comparison was made between the salaries of the Viceroy and the Prime Minister counsel said it was here suggested that the Prime Minister got only Rs. 5,000 a month, because English people would not pay him more. That was all nonsense. A Prime Minister was generally a person, who had already made a large fortune, and the question of money was no consideration to him. Again, the Prime Minister had not to entertain Indian and European Members of the Legislative Councils, etc.

Mr. Jinnah said it was not a fact. The Viceroy and the Governor were paid additional allowances for entertaining people.

At this stage Mr. Binning asked the Court to adjourn the proceedings.

#### Fourth day's Proceedings.

*Thursday, the 10th instant.*

The hearing of the case was resumed at 12 noon on Thursday.

#### "A TOUCH OF THE OLD TILAK."

Mr. Binning continuing said that Mr. Tilak said the bureaucracy objected to the people saying the Government of India had not made the Indians fit to rule themselves. This was received with cheers and was likely to cause disaffection. If, on the other hand, Indians were fit to rule themselves, the Government were not telling this to people at Home in order not to give them Home Rule. "In the present crisis if they were resolute they could turn the bureaucracy out. If they wished to remain slaves none would say 'don't.' What was the use of advising them who wished to remain in slavery? There

was only one medicine and it was power". Take it, said Mr. Tilak, that was a touch of the old Mr. Tilak. Again, suggestions were made that Indian and English subjects were not treated alike, there was distinction. Where there was wisdom there was power. That was an entirely new idea. The Ahmednagar audience was asked to believe that the Government had stopped their industries, which for the last fifty years were really prospering. That was a disgraceful statement to make. According to Mr. Tilak, Indians who accepted Government offices were not manly. They had only the natures of animals as animals did not possess the better qualities of man. There is no scope for men of education and manliness in India, said Mr. Tilak. If they got "Swarajya" instead of being treated like animals they would be treated like men. That was the most offensive remark calculated to create disaffection. When they got Home Rule they could do anything. Counsel hoped the millennium would then arrive. Again he said, "Give us Home Rule first and we will settle with the Mahomedans afterwards," but they must settle it first and Home Rule would come afterwards. They must take into consideration Mr. Tilak's past when he said "I don't tell you to do any unlawful thing. They must not be afraid of blustering and bawling."

### C. I. D. A PART OF THE CONSTITUTION.

It was a most offensive remark against the C. I. D. who were a part of the British constitution in India. "Did Mr. Tilak really say," asked counsel, "that there was more peace in the time of the Peshwas than under the British Government?" That was not correct.

Mr. Jinnah :—How do you know it was not?

Mr. Binning :—I have read both English and Indian histories.

Mr. Jinnah said Elphinstone said that, and it was in his history.

Continuing, Mr. Binning said they were not there because Mr. Tilak advocated Home Rule; but because he had advocated it in a particular way and would continue doing so. The com-

plaint against Mr. Tilak was not that he advocated Home Rule, but he did it in an unpardonable way.

### MANNER NOT THEME CULPABLE.

After referring to some more passages, Mr. Binning said that he had to say it again they were not there that day; because Mr. Tilak had advocated any particular scheme of Home Rule ; but they were there because of the way in which he had advocated it. As he said before, the complaint against Mr. Tilak was that in advocating Home Rule, he said things which were quite unpardonable. There was nothing like a tangible scheme of Home Rule, suggested in those speeches. Counsel said he had nothing to say about the merits of the Home Rule question. That was a matter entirely outside this case. It was natural that the inhabitants of a country should desire and strive for powers to govern their country themselves. Personally it seemed to him that it was a perfectly good ideal to have before one without attempting to bring the Government into contempt and hatred. But unfortunately, that was not the attitude of Mr. Tilak. If they looked at Mr. Tilak's speeches they would find that their real object was not to put forward a coherent scheme of Swarajya, but it was to abuse the Government. First of all he said that the Government did not work for the people's good, that they would not listen to their grievances, and that they stopped their mouths and intellects.

Secondly he said that the British official was full of overweening conceit and greed, and his first care was to see to his own pay and interests.

Thirdly Mr. Tilak charged the officials with deliberately misleading what was called "the invisible government." namely the Sovereign and the English people as to the condition of the people of India, who were fit to govern themselves by representing that they were not so fit.

Fourthly he said that the Government themselves were unfit to govern India.

Fifthly and lastly the general and main theme of the speeches was that the Government were carrying on the same policy as the East India Company which was to squeeze the people and make as large a profit as possible.

In short, Mr. Tilak charged the officials with greed, conceit, dishonesty and incompetence. Counsel observed that it was immaterial whether all those charges against the Government were true or not. He was not concerned with that. Even if they were true, as had been pointed out in several cases, the mentioning of them was calculated to bring the Government into hatred and contempt.

Mr. Jinnah said he agreed that the truth in such a case would be no justification.

Mr. Binning said he would adopt that. Continuing, Mr. Binning said that was the position with regard to those speeches, but before he stopped he should like to point out that if one applied to the representatives of the British Government in India the words which Mr. Tilak had applied to them one was endeavouring to excite feelings of disaffection against the Government within the meaning of Section 121A.

He should also like to refer to one or two small points. Mr. Jinnah had made a complaint that the man who originally made the translations was not called. Obviously there was nothing in it. So long as a responsible person said that he had compared the translations, what mattered who made them as the man who made the translations originally was a witness who in the opinion of the prosecution would not be a good witness to be submitted to the skilful cross-examination of Mr. Jinnah. What was the good of calling him when there had a perfectly competent man who was not likely to be confused in cross-examination?

Another point to which he wished to refer was the fact that though Mr. Tilak had an ample opportunity himself of stating to the Court what his explanation about the speech was, he had chosen to leave that to his counsel.

Mr. Binning :—But I feel bound to say for myself that am his own explanation would appeal much more powerfully than ever that of his professional advisers.

### MR. JINNAH'S ADDRESS.

Mr. Jinnah then addressed the Court on behalf of Mr. Tilak. He said he was rather in an embarrassing position because Mr. Binning had told the Magistrate that the service to which he belonged was being attacked in the speeches. He hoped the Court would pay no attention to that and would rise above it and do his duty as a judge. It was a delicate matter because the judge belonged to the Service which was being attacked and he hoped he would give him the fullest liberty which the traditions of the bar had always allowed them. The first question was that they had not got Mr. Tilak's speeches as speeches written by him.

### SPEECHES MURDERED.

The speeches were taken down by short-hand writers, who were deputed by the C. I. D., with whom Mr. Tilak was not a *persona grata*, evidently with the object of catching him for prosecution if possible. Those two men took down the notes. His submission was that these witnesses were not frank or fair or honest because they would not have given the evidence they had, if they had been fair. They had told the Court it was impossible to make mistakes. But no judge would believe that. They not only made mistakes but murdered the speeches. They had, however, admitted that certain sentences and words might have been taken down wrongly or omitted and it is very important to remember that, and it is a matter of common knowledge that short-hand writers spoil the speeches though unwittingly.

Then coming to the second process of transcribing, there was the further difficulty of comparing whether the transcript was accurate. They had transcribed what was thought to be Mr. Tilak's speeches. Then they had the third process of translation. The man who had translated it was not brought before the Court because he was man of such a temperament,

intelligence and nature that a cross-examination would confound him. They had therefore a man who could not be confounded by a cross-examination. The Court had seen in the course of the examination that certain words which had not been used had been used by the translator to make the speech offensive.

Of course, Mr. Tilak said that generally the substance of the speeches was correct, but there were omissions and imperfections in certain places. These were the circumstances in connection with the speeches which he asked the Court to bear in mind when taking them into consideration.

#### INTERPRETATION OF SECTION 124A.

The first question that arose was this: whether the speeches came under Section 124A. The law had been laid down that the Court had to approach the statement in writing in the light that Mr. Binning had pointed out by looking at one sentence here and one passage there, but by looking at the whole speech. Lord Fitzgerald had laid down the law in 1868 in Sullivan's case, and that had been the law ever since which was adopted in the "Bangabasi" case and in the Trial by Justice Strachey who said that it would not be right to judge of the intention by isolated passages or casual expression without reference to the context.

Continuing Mr. Jinnah said that his proposition was that these speeches came under the second Explanation. They were comments expressing disapprobation of the measures of Government with a view to bring about a change by lawful means, without exciting hatred or contempt or disaffection. The only way to do so was by looking at the whole speeches.

#### PREVIOUS CONVICTIONS.

He had urged at the time the record of convictions tendered, that it should not be allowed. Section 108 was a preventive section. Therefore, if a man has committed similar acts before it would be a piece of evidence persuading the Court that he must be bound over. These convictions, however, could not carry much weight as the first conviction was

1898 and the second about eight years ago. The Magistrate must not think, that because he was convicted, Mr. Tilak was a bad man and whatever he said was under a disguise and it was terribly seditious. Mr. Binning had asked the Court not to believe Mr. Tilak because he had been convicted. Mr. Jinnah hoped it would not take any notice of this. The first thing the Court had to bear in mind was this. Mr. Binning had read the speeches as if they were some independent discourses or lectures. He had forgotten the purpose and the object and the occasion of these speeches altogether. The Court would find from the speeches themselves that Mr. Tilak and those who agreed with him had decided to start a Home Rule League and a Home Rule League was established at Belgaum on that occasion. Mr. Tilak had told the Court in his own words that the lectures were intended to advocate this propaganda of Home Rule, which was being attacked from certain quarters, both official and Indian. The lecture, therefore, was really intended to be an answer to the objections which were urged by those who were opposed to the Home Rule League and his object was to define the scope and to remove the misunderstanding so far as his school of thought was concerned. He wanted to demolish the arguments which had been advocated against the Home Rule League. Mr. Binning argued that Mr. Tilak was a wicked fellow and wherever there was any passage not favourable to the prosecution, he put it down as a cloak, as a disguise, but whenever any strong comment appeared he labelled it as sedition.

Mr. Binning had frankly and fairly said that he was not objecting to the Home Rule League propaganda being legitimately discussed, but he objected to the manner and method which Mr. Tilak had adopted in advocating the movement. In other words, Mr. Binning said that the advocacy of the Home Rule League and its propaganda was a mere cloak, and that Mr. Tilak really wanted to libel the Government established by law to his heart's content. Mr. Binning had further

said that he did not wonder at it, considering that Mr. Tilak had been twice convicted at the instance of the Government. Counsel said a grosser misrepresentation of these lectures could not possibly be imagined.

No other interpretation than a frank advocacy of Home Rule can be put upon the speeches and Mr. Tilak can never be supposed to be actuated by malice or with a desire to libel the Government. The Court could not do him greater injustice if Mr. Binning's argument was accepted.

### THE LEVEL OF THE AUDIENCE.

His submission was that Mr. Tilak went to Ahmednagar and Belgaum to establish Home Rule League and he wanted the people to join them and also pay subscriptions to carry on the work of the League. He had an audience of all classes and Mr. Tilak took a great deal of pains to go to their level and make them understand the position. Of course Mr. Binning had said it was all nonsense but they must consider the class of audience whom Mr. Tilak had to address. In the first lecture he told them what the Government was. Mr. Tilak was addressing an audience which was largely composed of ignorant people. He wanted to make them understand and so went into the most elementary principles. Why, in the name of Heavens, attribute dishonest motives to Mr. Tilak and insist that he stood before an audience of 5,000 people and said what he did not believe and that the audience which held these sentiments believed that he was not speaking the truth. Why imagine that hatred or contempt must be more in the mind of the audience, because he sketched the idea of Home Rule in a crude manner to a particular audience and the audience cheered him because they approved of what he said, that Home Rule should be secured through the British and must be fostered by British Rule, etc. Was that sedition? Swarajya had been defined by Mr. Tilak in a very clear manner. He put it briefly by saying that the management of their affairs should be in their own hands and that was the demand.

Swarajaya. Swarajaya was the full authority for the management of their affairs and not that the British Government should go away and that the Germans should come here. Then he said the present position in India was this that they had a Civil Service—bureaucracy. Mr. Tilak used the word Sarkar for the Civil Service. He found it very hard to make the audience understand the word Civil Service. The audience understood well that by the Government he did not mean the Government established by law. The whole of the burden of Mr. Tilak's song was this : He said that the Civil Service had got a monopoly of power and that that system was not beneficial,—it was neither beneficial to the people of this country, nor to the English people,—and he said there must be a change. Therefore really this attack was an attack on this system, not on Government.

### C. I. D. GOVERNMENT.

Mr. Jinnah asked what was the Government established by law? Suppose you attacked the Civil Service or the C. I. D. Mr. Binning had said that the C. I. D. was the Government established by law. If the C. I. D. was Government by law established then he would say good-bye to all Government established by law in the country. Counsel's proposition was that the Civil Service was not the Government established by law, under Section 24A. Take the army system, was it sedition to attack it? Suppose he attacked the police or the forest service, was that sedition? When Mr. Tilak said, 'You cannot cut grass or kill a tiger, he said there was the Civil Service whose permission they had to get to do everything. Mr. Tilak meant : "We want some better arrangement than this." Mr. Tilak did not attribute dishonesty or immorality to the Collectors. He said that there were certain grievances, which could be remedied and there were certain grievances which were without foundation, which if Indians had the management would still be there. There was the typical instance of the 'Opposition' who attacked the Government for not doing certain things which they did not do when they came into power.

They had started the Home Rule movement to bring about change in the present system of administration which they wanted to carry out by reasonable and practical methods which Mr. Tilak had laid down at the end of the speech. Mr. Tilak found fault with the present system of administration and said what Swarajya meant. Then he said the change should be brought about partially, gradually and then fully. Mr. Tilak said that the monopoly which the Civil Service were enjoying at the present time so far the actual administration of the country was concerned, should not be continued and laid down a plan for so doing. Mr. Tilak said the amendment was to be brought about through Parliament. They should not ask it from others. He said a petition was to be made to the English people and the English Parliament. They had to do everything legal for that purpose. He said they had grievances some of which were real and some of which were not, because they had not the administration in their hands. The administration was managed by the Civil Service and they had the monopoly. The people were helpless, they could not do any small thing unless they obtained the permission of the Collector. This system must, therefore, be changed. Mr. Tilak asked were they not going to put their heads together to bring about the change? It was admitted that the people of India were the most backward in the world and he said the British Government did not object to their having Home Rule; but there were the officials, not only European, but Indian. He urged to be determined to show their resoluteness to become members of this League and subscribe money and not to be frightened by the C. I. D. Mr. Tilak said "Be manly" and took pity on their condition. Mr. Binning had said the moment a man said that they were backward and must rise, that meant that the bureaucracy kept them down like this. Nowhere had Mr. Tilak said that the bureaucracy was keeping them down like animals. He did not charge the British people, on the contrary, if any of these facts were well known to the people, at home, things would be improved. Counsel said he was not

going to dispute for a moment that words here and there were strong. Some people might like them, but Mr. Tilak never intended any offence or insult. When a person was on his legs before 4,000 or 5,000 people lecturing, there was likely to be a certain amount of excitement. Counsel had ascertained from Mr. Tilak that he certainly did not mean to be offensive to certain individuals or officials. Mr. Jinnah then went on to deal with the speeches and quoted the story of the three *Dhurtas* as was repeated by Sir Ramkrishna Bhandarkar in the Imperial Legislative Council which was not meant to be offensive. He could not imagine that the same Dr. Bhandarkar, who has translated the Sanskrit word 'Dhurta' as rogue in his Second book would have meant to say, in the Imperial Council that his opponents like the late Mr. Gokhale and others were *rogues*. Mr. Jinnah explained that what Mr. Tilak meant was that the Home Rule League was the sheep which was carried over head by Mr. Tilak and his friends and what he meant was that let others say anything *re* the Home Rule League, people need not be confused by the opponents. And the story was more applicable to his own countrymen i. e. the moderates. Where is the sting, the insult, the offence, then?

The Magistrate :—The word *rogues* is quite immaterial to this story.

Mr. Jinnah : quite so ; that is the point. Mr. Tilak demolishes the arguments of unfitness, of driving away the English people, and of the fear of the C. I. D. There is nothing wrong in this. What he meant was "Don't be simpletons."

Now coming to the Commercial Policy of the Company's Government, Mr. Jinnah said that the Company's rule was bad and rotten. It is good that it has gone. Mr. Jinnah after explaining the working of the Company Government said that the Statute of 1858 was based on the model of administration of the Company's Government. But the proclamation which defined the policy of the Government remained a dead letter.

### CRITICISM OF A SYSTEM.

Mr. Binning had said it was absurd to give a time limit for Home Rule, but the American Government had done that

in the case of the Philipines. As to the argument of Mr. Binning about the Secretary of State being called a son-in-law, Counsel submitted that it was urged by publicists in India and in England that the post of the Secretary of State as well as his Council should be abolished, because the post is occupied by a man who can not have the portfolio elsewhere yet such man possesses tremendous powers in his hands, and, as said by Lord Morley once, even the Governor-General is his agent. There is therefore no sedition in Mr. Tilak's remarks on this point.

Counsel said where there was will there was way. Englishmen were aliens in this country, said counsel, and Mr. Asquith and Lord Cromer had said that this was not the country of the domicile of Englishmen. There was nothing offensive in this and counsel quoted Mr. Asquith's speech in support. When Mr. Asquith and Lord Cromer say the same thing it was right, but if Mr. Tilak says the same then it is sedition. As regards that part of the speech wherein Mr. Binning was in doubt as to what Mr. Tilak meant by saying "We shall have to go by giving him a push" Mr. Jinnah submitted that there must be something missing in it because as it stood it meant nothing. The proper version is that Mr. Tilak advocated the door of Parliament while learned aliens ask him to go to the other viz. the door of bureaucracy. But Mr. Tilak did not want to go by that door as there they were likely to meet with obstruction. This contingency Mr. Tilak wanted to avoid, so he therefore advised his audience not to go by this other door. There was nothing improper in this. Coming to the point "who told you to come here" in the speech, Counsel said that there are some civilians who grumble and complain that the climate is extremely hot and trying etc. and Mr. Tilak sarcastically replies them "who asked you to come here." It is a taunt and not sedition.

Mr. Asquith had said the Government of the country was in the hands of learned aliens and Mr. Tilak had said nothing else. Mr. Tilak wanted a thorough overhauling of administration and the Home Rule League was there for that purpose.

was a fact that Europeans were exiles in this land and were suffering from heat, etc, and Mr. Tilak used it sarcastically. But now could there be sedition in that? Regarding invisible Government, counsel said the Secretary of State was invisible. The Government as was carried out from Downing Street was invisible. That part of Government which was in Europe was invisible. Counsel said his first proposition was this, if the criticism was the criticism of a certain set of administrators as stated by Mr. Justice Strachey, it did not come under Section 124A. It was the criticism of a system and nothing else; and even according to Justice Strachey's dictum a severe, nay, even a perverse criticism thereof would be protected by the explanation which exempts from the operation of the section any disapprobation of a measure of Government caused for the purpose of getting that measure reformed, modified or repealed by law-ful means. The change advocated was to be brought about by changing the existing law through Parliament. The Act of 1858 was nothing but a measure and was covered by the explanation of Section 124A. That because one Act had come into force, it did not prevent them from expressing disapprobation with a view to repealing or modifying it. In order to remove or repeal certain Acts they had to criticise the present policy and show the defects and flaws. Was not Mr. Tilak entitled to say that the substitute he proposed was Home Rule which was a better system both in the interest of the Government and the people? Otherwise none would escape Section 124A.

As to the objection of Mr. Binning regarding that part of the speech wherein Mr. Tilak said "we have lost our trade," Counsel said that to any one who was acquainted with history it is a patent fact that India has lost her trade. Mr. Tilak has not said that it is due to the scheming of the bureaucracy, still, Counsel submitted, it remains a fact. Those who knew the history of excise duty would be convinced that their hands were tied down altogether.

#### ACHING BELLY.

Coming to that part of the speech viz. "Remove the middle-men's aching belly," counsel said the translation of aching

"belly" was a mere murder of the Marathi proverb. Mr. Binning had said Mr. Tilak wanted to bring the Government into contempt, but Mr. Tilak had said nothing against the Government. Mr. Tilak said the Government was all-right but he had certain officials who could not bear that certain rights should be given to the people and counsel submitted that they did not bring the Government into contempt although it was severe criticism of Collectors and Commissioners.

Referring to the point of '*Badwas of Pandharpur*' and '*Pujaris*', Counsel said that Mr. Tilak wanted to do away with the monopoly of these Civilians. It is not a venom against the white Civilians but against the system. He did not speak his own countrymen wherever they have got the monopoly. He said that an Indian Civilian is sometimes a worse bureaucrat than his brother. Continuing Mr. Jinnah said that it is unfair and unjust to first report a man wrongly, then get him wrongfully translated in the O. I. D. shop, and finally obtain sanction and to base a prosecution thereon against Mr. Tilak against whom there is already a strong prejudice. It is unfair to pick a word here, an expression there and say that it is sedition. Mr. Tilak's speeches had been taken down by C. I. I. reporters who have no love for him and had been wrongly translated and counsel hoped that in the light of his explanation the Court would think of them favourably. Mr. Tilak's only objection was that the present management was monopolistic and it must be finished. He did not incite to violence. There was nothing wrong in a man telling his countrymen to leave men rather than remain in a fallen state. In concluding his remarks on the second speech Mr. Jinnah submitted: Not only Mr. Tilak but some members of the Civil Service have advocated such reforms (here the counsel referred the Court to the books written by Mr. Houghton and Mr. Fielding Hull on the subject of Home Rule). Mr. Tilak wants to convey that the executive should be responsible to the people. He does not want the officers to be his servants. He wanted the officials to be responsible to the people as in other countries.

Referring to the points of 'bondage' and 'slavery' and 'Parrot-story', counsel submitted that there was no charge against the Government that they have kept the people in slavery but the condition of things brought about by this faulty system has resulted in a degeneration of the people of this country. Mr. Tilak wanted to rouse his countrymen from their lethargy and there was no sedition in it. Merely having sufficient to eat is not the *summum bonum* of life. Sir Walter Lawrence formerly Private Secretary to the Viceroy, advocated a new form of Government and Mr. Tilak has endorsed the same in his speech. What Mr. Tilak wanted to impress upon his audience was that they should not remain fourteenth century men but should become twentieth century men. Surely there was no sedition in saying that. Again with reference to the allusion about beasts, counsel said no imputation was there made against the Government that it was treating the people as beasts.

In conclusion Mr. Jinnah submitted that no case had been made out by the prosecution for asking the Court to bind over Mr. Tilak.

The Court reserved judgment till Saturday.

#### DECISION.

On Saturday 12th instant the proceedings began at 12-35 P. M.

Mr. Hatch.—Mr. Tilak, you must enter into a bond of Rs. 20,000 and give two sureties of Rs. 10,000 each. I have given my reasons in my judgment of which a copy will be shortly given to you. You should consider yourself a fortunate man in that Government have not proceeded against you under the substantive Section 124A. Section 108 Cr. P. C. is a preventive Section and this should serve you and your friends as a warning.

Then Mr. Tilak signed a bond of Rs. 20,000 and tendered Mr. Trimbak Hari Avte and Mr. Ganpat Vithoba Morval as his sureties and they were accepted by the Magistrate.

## Rule against Mr. Tilak.

### Dist. Magt's Decision.

The following is the full text of the decision of Mr. G. V. Hatch Esq. I. c. s., District Magistrate, Poona, in the matter of the rule issued against Mr. Tilak :—

On information laid by Mr. J. A. Guider, Deputy Inspector-General of Police, C. I. D., Poona, this Court on 27 July 1916 issued a notice under Section 108, 112 Criminal Procedure Code, calling upon Bal Gangadhar Tilak to state cause why he should not be ordered to execute a bond for a sum of Rs. 20,000, with two sureties each in a sum of Rs. 10,000 for his good behaviour for a period of one year.

The information laid was to the effect that B. G. Tilak having previous convictions for sedition was orally disseminating seditious matter, that is matter, the publication of which is punishable under Section 124A I. P. C., and in witness thereof the reports prepared by short-hand writers in Marathi of speeches delivered by Mr. Tilak on 1st May 1916, 31st May 1916 and 1st June 1916, together with English translation of the same, were put in by Mr. Guider.

A summons was issued to Mr. Tilak returnable on 28th July 1916; subsequently on the application of the defendant postponement was granted till 2nd August and again on the application of both parties till 7th August.

The evidence in support of this information has been heard. It consists of the statements of the two short-hand reporters and of an official from the Oriental Translator's office. The former testify that the Marathi transcripts of their shorthand notes (viz. Exhibits B, D and F) contain a correct account of what they heard Tilak say. The latter certifies to the English translations put in (viz. Exhibits C, H and I) being correct translations of Exhibits B, D and F.

The prosecution also put in a certificate under Section 511, clause (b) of the Criminal Procedure Code regarding

Tilak's previous convictions for sedition. Counsel for Tilak objected to this record of previous convictions going in but his objection was over-ruled. Mr. Jinnah (for Tilak) remarked that the fine of Rs. 1,000 under Section 153-A had been remitted by Government, and Mr. Binning (for Government) admitted that this was so.

Tilak in reply to the Court admitted that the reports of his speeches were on the whole and generally speaking correct, although there were omissions and imperfections. His object, he said, was to defend and explain Home Rule, and point out the best way of obtaining it; also to exhort people to become members of the Home Rule League. Asked whether he could explain in a few words what he meant by Home Rule, he replied "It is given in the speeches.

The defence called no witnesses. Counsel for the defence has not seriously impugned the correctness of the translations of the speeches; but he objects to the translation of a few words, to which I will now refer.

In the first speech (Exhibit G) on page 3 it is suggested that the word "the" in line 4 is superfluous: also that the word "entity" in the middle of the page should be "form;" on page 5 instead of 'conceit,' the defence suggest "over-confidence"; on page 6, they object to 'rogue' as a translation of 'dhurt,' on page 7 for "accumulated" they would read "collected"; on page 8 for "obstruction" they read "hindrance," on page 9 for "Sovereign's Policy" "State Policy." This is the complete list of amendments in speech I and the only one of the least importance to the meaning in the opinion of this Court is the last. Here the Marathi transcript shows 'rajadhoran' 'sovereign's policy. Had it shown rajyadhoran, the correct translation would have been 'State Policy.' One of the short-hand writers made no distinction between his short-hand version of raj and rajya, the other did. In any case it seems to the Court a reasonable possibility that the speaker may have been misheard. The general trend of the argument in speeches seems to fit in better with "state policy" in place of 'sovereign's

policy,' in the passage at the foot of page 9. I would, therefore, allow the defence the benefit of the doubt in this case and read 'State policy.'

In speech II (Exhibit H) two amendments are suggested on page 2. The first, "administration of the state" instead of "ruling power", is accepted by counsel for the prosecution; the second is an improved translation of a somewhat difficult passage regarding the meaning of the word 'aliens.' The improved translation will be found in the deposition of witness No. 2. It does not affect the argument.

In speech III (Exhibit I) the words "slavery" and "bondage" occurring at the foot of page 1 were challenged by the defence. The Marathi words are 'gulamgiri' and 'dasya'. Witness No. 2 an experienced translator, asserts that these words are correctly translated, the defence asserts that the former should be translated as "servitude," for "dasya" also they suggested the same word to the witness.

On page 3 the word 'beast' for 'pashu' is objected to. 'animal' or 'cattle' is suggested in its place.

Throughout the speeches wherever 'gulamgiri' appears it has been translated 'slavery'-the defence prefers 'servitude'.

The above is a complete list of the points-so far as the Court has been able to note them-in which the defence impugns the translation. There are, as might be expected, a few passages in which elisions appear to have occurred, making the meaning doubtful. On the whole, this Court finds no difficulty in coming to the conclusion that the English versions Exhibits G, H and I, are accurate translations of the Marathi transcripts (B, D and F); and it sees no reason to question the statement of the short-hand writers, men of experience in their profession, that the transcripts represent a true and complete account of what they heard Mr. Tilak say.

Mr. Binning for the prosecution relies upon the whole of the speeches. He indicated certain passages on which he chiefly relies-they are marked in red by the Court on Exhibits C, H and I. He states plainly that he does not call into question

tion the propriety of the discussion of Home Rule. His instructions are to express no views on that subject. What he asked the Court to condemn, on the ground that they are seditious within the meaning of Section 124-A of the Indian Penal Code, are the remarks made by Tilak in various parts of the speeches in which he imputes dishonest and corrupt motives to Government.

Analysing briefly the speech delivered on 1st May, we find first of all an attempt to divide the Government existing in India at the present time into two portions, the 'invisible English Government', and the 'visible Government,' by whose hands the invisible Government is getting works done'. Mr. Tilak says he does not desire to change the former, but that the latter should 'pass into other hands' and, as he explains later, by that he means 'into our own hands', the hands of the people of this country.

He goes on to tell his audience that it is not sedition to ask for the removal of a single official, be he a sepoy or a Governor. He then plainly indicates his opinion that the present administration is not being carried on well. He gives a list of alleged grievances—abolition of Kulkarni watans, forest 'zulum', spread of liquor drinking, absence of proper education, abolition of trial by jury at Belgaum, no College in the Karnatic. Why, he asks, do these things exist? There is only one answer. "If you had been the officials in their place, or if their authority had been responsible to the public opinion, these things would not have happened". He goes on to tell his audience they are helpless; they can do nothing without a petition to the Collector. "We want some better arrangement than this." The present officials, not being selected by the people, think they know best—it is their conceit or over-confidence. "Other bureaucrats say 'act according to our wishes we say, act according to our wishes, so that all grievances will be removed.'

Later on he refers to the visible Government in this country as the 'deities' between the people and the invisible

king or Government.' "God does not get angry; these deities get angry without reason." He gives the instance of a panch trying to keep the administration of his own affairs, of the hands of their wards. They say he is half-mad, that has bad habits; eventually they go before the Court and him adjudged mad. "Some things like these have now begun to happen here."

Then follows the story of the three rogues. Mr. Jinnah! the defence sought to give this story a cachet of respectability by quoting it as delivered by Sir R. Bhandarkar in the course of a speech in Council, when he likened his opponents to the matter of the University Bill—including such a reputable person as the Hon'ble Mr. Gokhale— to the three rogues of the story. But a story may be told in more than one way, it may carry more than one moral. Mr. Tilak's object appears to have been to invite his audience to see a likeness between the Indians who do not advocate Home Rule and the rogues of the story; and to warn them to beware of the guiles of those persons who would deprive them of their rightful property in swarajya.

He next discusses the question of fitness. He indulges in some remarks which are admittedly offensive (i. e. Mr. Jinnah for the defence admits them to be so) regarding the inexperienced youth from England, who, he suggests, lords it over Mamlatdars of 60 years of age.

He concludes this discussion by the words "How long you teach us?... .... Is there any end to this? Or must just like this, work under you like slaves till the end?" adds:—"These officers have control over the people's education and it is their duty to improve them; this duty remains on one side, they make attempts on the other side. They say whatever attempts they make, it is impossible for these people to become fit for this work. I think that to place such exasperated before the invisible Government is in a manner an occupation of securing one's own interest."

After referring to the smooth working of the administration in the Native State of Mysore he remarks :—“The only object in saying that the Indians are not fit to carry on the administration is that they are always to be kept in slavery, that they are to be made to do work by labouring like slaves, and that the ways whereby their intellect and their ability may be developed are to be stopped”—sentiments greeted by his audience with cheers and cries of shame.

In the next paragraph (page 9) he refers to the money-making or trading policy of the East India Company ; an administration in which the people's good was not considered. In 1858 the Sovereign took the administration into his own hands; but the establishment of employees remained the same. The Director of the Company went, and the State Secretary came in his place ; it is the latter and not the Governor-General, who decides how much money is to be spent in India and what taxes are to be imposed. “This is but a commercial policy” says Mr. Tilak. “Though the administration went into the hands of the Queen's Government, and although they issued a great proclamation, the “sovereign's policy (or “the State policy” in the alternative version) is not on the basis of the proclamation. The sovereign's policy is in accordance with the trading Company's policy, the administration of the kingdom is in accordance with the Company's policy. And in the meantime the proclamation has no effect (Laughter, cheers).”

A little later he says that the bureaucracy, the State Secretary and the Governor-General have been cajoling the people of India by promising them additional powers and places. Then follows an objectionable reference to the Educational Department, in which, though most of the subordinate servants are Indians, a Saheb is kept at the head “to restrain their mouths and scope of their intellect.”

A little later the State Secretary is told that he is not wanted and is likened to the ‘son-in-law’, the suggestion apparently being that his appointment is the result.

of a job. A few lines lower down occurs this sentence "I say again, if the nation is to get happiness, if the thousands of complaints, that have arisen to-day, are to be removed, then first of all change this system of administration." His audience are told that if they get swarajya, all their difficulties will disappear. If additional expenditure is to be met it will be met voluntarily and will not oppress their minds. It follows a somewhat important sentence. "Learned aliens will tell us, when we are passing through this door, that we should not pass through this door but through that; but if anyone comes and stands there and (begins to) tell us not to pass through it, then we have to (or alternatively rendered 'have to') go out by giving him a push. The very same is the case with swarajya. This is the obstruction of the bureaucracy."

Mr. Jinnah suggests that "this door" is the door of Parliament, also that there is something missing in the sentence.

Tilak then passes on to a reference to the extravagance of paying a Collector Rs. 2,500. If they say they want this to pay on account of the hardships of the climate etc. he replies asking "who told them to come here? we did not ask them."

A few lines further down he tells his audience that proposes to go on placing the subject (before the people) every place in order to forward the Home Rule movement.

So ends speech No. 1, delivered on 1st May 1916 at 18th Provincial Conference at Belgaum before a large audience, composed of 'people of all sorts' (witness No. 1).

What have the defence to say about this speech? Jinnah tells this Court that the criticism in speech No. 1 is criticism of a certain set of administrators and refers to Justice Strachey's remarks in 22 Bombay at page 135 to effect that the Government established in British India made "British rule and its representatives as such the existing political system as distinguished from any particular set of administrators."

The Court has no hesitation in rejecting this suggestion. The quotations given above provide complete grounds for its refutation.

Mr. Jinnah's next line of defence is that the Act of 1858 (i. e. the Act under which the Government of India is constituted; since repealed and consolidated by an Act of 1915,) is nothing but a measure which may lawfully be disapproved with a view to its repeal or modification. Mr. Tilak in order to get it altered must show how the system set up by that Act is bad and defective. He proposes to get it altered in a lawful manner, by going to Parliament; he must be allowed to criticise the system and expose its abuses or he will have no chance of getting it altered.

The simple answer to this is that his criticisms must be such that they do not fall within the scope of Section 124-A of the Indian Penal Code. That Section has been explained and commented on in numerous reported cases. It is agreed that Tilak's first trial reported in 22 Bombay is the most complete exposition of the law. On page 137 Mr. Justice Strachey distinguishes between disaffection and disapprobation. In 8 Bombay Law Reporter, page 438, is found a definition of Government established by law in India; it amplifies Mr. Justice Strachey's definition on page 135 of 22 Bombay. I do not propose to discuss the law at length; it is now well understood. Disaffection in the words of Mr. Justice Strachey means "absence of affection or enmity....." "A man may criticise or comment on any measure or act of Government. ...may express the strongest condemnation of such measures, and he may do so severely and even unreasonably, perversely and unfairly.... But if he goes beyond that and whether in the course of comments on measures he holds up the Government itself to hatred or contempt.....as for instance by attributing to it every sort of evil and misfortune suffered by the people, or dwelling adversely on its foreign origin or character, or imputing to it base motives, or accusing it of hostility or indifference to the welfare of the people, then he is guilty under the

:Section." The quotations made above from the Belgaum speech include samples of three out of the four things which a man may not do.

Accordingly this Court has no hesitation in deciding that B. G. Tilak in his speech delivered at Belgaum on 1st May 1916 did speak words calculated to bring into hatred or contempt the Government established by law in British India, and did attempt to excite disaffection towards that Government, and that thereby he disseminated matter punishable under Section 124A of the Indian Penal Code.

Of the two speeches subsequently delivered at Ahmednagar, it is not necessary to speak at great length. They contain seditious passages undoubtedly; a few only will be quoted here, though others can be found. In the speech of 31st May ( Exhibit H ) on page 2, he describes the Government as alien and defines alien as follows :—" He is to be considered alien who does not do this duty ( i. e. those things whereby the nation may become eminent and be benefited), but looks only to his own benefit, to the benefit of his own race, and to the benefit of his original country." He says the people have been complaining of their grievances for the past 20 or 25 years but "the Government (he repeats the phrase) is alien. It does not know. .... However much you may clamour, however much you may agitate, whatever the number of grounds you may show, its sight is so affected as not to see the figures drawn from its own reports and set before it." A little further on—" Government has a sort of religious duty to perform; a sort of responsibility rests on its shoulders. I say that when Government evades this responsibility, it is no Government at all." He then compares the officials of the Government in India to the middlemen, or keepers of granaries, who according to the Indian proverbial expression, are worried ( literally 'whose bellies ache') when the master spends his money freely. He gives the proverb a sting by telling his audience that the intervening middlemen's aching bellies should be removed lending colour to a suggestion, which is not apparent in the

proverb in its usual form, that the middlemen are greedy and self-interested and on that account obtrude themselves between the master and the people.

In a later passage he invites attention to the fact that he desires to retain the rule of the English Government and does not desire a German Government in its place. Mr. Jinnah asks the Court to note this passage, as an evidence of Tilak's good faith and loyalty.

In another passage Tilak complains that while money cannot be found for education, it can be found for increasing the pay of the bureaucracy. Later he says:—"Their first look-out is to see how their pay will be secure."

Again he declares the present Government unfit to rule because in 50 years they have not educated the Indians up to a point when they can rule themselves. He describes their 'deceit' and 'shuffling' in the matter of pronouncing the Indian unfit. He tells his audience that they must have the courage to laugh in the saheb's face instead of in their homes. He finally exhorts them thus: "If you wish to remain slaves, do so. No one says, do not. What is the use of giving advice to him hundreds of times who likes slavery? He who is willing to remain in slavery may do so freely. But this is not the condition of citizens." Mr. Jinnah says:—Mr. Tilak's only object is to wake people up out of their lethargy. Doubtless. But when in order to do so, he tells them they are 'slaves' or are 'in servitude'—if that translation is preferred—not once, but ten or a dozen times in the course of the three speeches—then he must not complain if he is charged with attempting to excite disaffection towards the Government responsible, as he alleges, for keeping them in this unfortunate plight.

In the 3rd speech (Exhibit I) delivered on the following day, there are two passages which I will quote. The first develops the slavery theme: it runs thus: "Our industries must be improved. But why it was stopped? Who stopped it? If we begin to look out for the cause of this (it will appear that) we did not stop this industrial reform, we did not stop this

economic reform. In that nation in which there is a way and there is liberty to use and show one's ability, good qualities flourish. But when there is utter slavery and bondage, what qualities will be developed? Nothing will happen except with the pleasure of the master." Mr. Jinnah says again he is trying to wake up his audience; to the ordinary man he appears to be trying to alienate the affection of his listeners, to cause that absence of affection or enmity towards the Government which constitutes disaffection and disloyalty. A little later Tilak drives his point home still more by telling the people that unless they get the administration changed, "every man in India will become more and more effeminate. The duty we have to do is that. Such are the institutions of slavery."

The second important passage is concerned with his statement of what constitutes the national question. The chief question is whether a certain nation is to be treated like beast or considering the people in the nation to be men, their sentiment, their desire for liberty is to bend in some direction and they are to be brought and placed in the rank "of civilized nations." The defence suggest that 'beast' is too strong a word. After referring to the available dictionaries and studying the context, the Court concludes that an English writer or orator would certainly have used the words "brute beasts" in this connection and that the word 'pashu' in Tilak's mouth meant that and nothing else. There are other offensive passages in this speech calculated to alienate the affection of his audience from the rulers, but it is unnecessary to quote from it further.

Looking at these speeches as a whole, fairly, freely, and without giving undue weight to isolated passages, what impression do they convey to us, and what impression must we believe they conveyed to the audience to which they were addressed? The impression I gather from them is that Tilak wishes to disaffect his audience towards the Government, in order that they may 'wake up' (to adopt Mr. Jinnah's words)

to their present unhappy condition, join his Home Rule League and help him in his agitation for a change in the administration of the country. He is addressing an ignorant audience,—Counsel for the defence insisted upon this point—and he knows that he cannot interest them in his argument unless he can illustrate it forcibly; so he tells them that they are slaves, that their grievances remain unredressed, that the Government only considers its own interests which are alien to theirs, and intends to keep them in slavery on the untrue excuse that they are not fit to rule themselves.

Mr. Jinnah's contention that it is not the Government that Tilak is attacking but only the Civil Service, will be discarded at once by any one who reads the speeches through. The speaker refers frequently to the Bureaucracy using the English word; but the context and trend of his argument throughout shows that he is referring to the whole system of Government and the whole body of officials in India from the Governor-General down to the Police sepoy.

Tilak has been twice convicted under Section 124 A; the first time in 1897, the second in 1908.

He finished his term of imprisonment for the second offence only two years ago. He has proclaimed his intention in the Belgaum speech of talking again upon this subject. Accordingly I am satisfied that in order to maintain his good behaviour it is necessary that he should execute a bond with two sureties as set out in my order of 22nd July last. I direct that he do enter into a bond in a sum of Rs. 20,000, with two sureties each in a sum of Rs. 10,000 to be of good behaviour for a period of one year (Section 108 Criminal Procedure Code.)

(12.8.1916.)

(Sd.) G. W. Hatch,  
District Magistrate, Poona.

On the 23rd of August Mr. Tilak filed the following revisional application in the High Court of Judicature at Bombay against the order of the District Magistrate of Poona.

CC-0. Jangamwadi Math Collection. Digitized by eGangotri

IN HIS MAJESTY'S HIGH COURT OF JUDICATURE  
AT BOMBAY.

CRIMINAL REVISION APPLICATION.

No. 232 of 1916.

BAL GANGADHAR TILAK Residing at Poona.

V/s.

KING EMPEROR.

The humble petition of Bal  
Gangadhar Tilak Residing  
at Poona.

(Before the Hon. Justice Beaman

AND

Hon. Justice Sir John Heaton).

RESPECTFULLY SHOWETH :—

That the petitioner was called upon by Mr. Hatch, District Magistrate, Poona, to furnish security for good behaviour under Section 108 Cri. P. Code and was by his order dated 1<sup>st</sup> August 1916 required to enter into a bond in a sum of Rupees 20000 with two sureties each in a sum of Rs. 10000 to be of good behaviour for a period of one year.

Being aggrieved by this order Your Lordships' petitioner begs to approach this Honourable Court with a prayer that Your Lordships will be pleased to send for the Record and papers of the case and set aside the order on the following among other grounds :—

1. That the Lower Court misunderstood Sec. 124A. of the Indian P. Code and failed to duly notice its second explanation.

2. The learned Magistrate omitted to follow the provisions of section 117 of the Cri. P.C. in the conduct of the case after the appearance before him of the petitioner to show cause as required by his notice in that he failed to examine the informant in petitioner's presence.

3. That the Lower Court committed an error in law in admitting at the stage it did, evidence of petitioner's previous

convictions recorded more than 6 years ago and in using the same for the purpose of construing the speeches of Petitioner.

4. That the learned Magistrate was wrong in law in accepting as proved the particular words and passages for which petitioner is bound over, without legal and legally sufficient evidence.

5. That the learned Magistrate allowed his judgment to be influenced by notes of the shorthand writers regarding "cheers" &c. without legal proof of the same.

6. That the three speeches as presented to the Court by the prosecution are not the verbatim reports of petitioner's speeches and cannot legally be made the bases of an order under Sec. 108 Cri. P. C.

7. That petitioner is not legally liable to be proceeded against under section 108 Cri. P. Code.

8. That the Lower Court misconstrued the speeches and their scope though it was specially explained by the petitioner in his speeches.

9. That the main object of petitioner in the speeches being to bring about a change in the system of administration by an amendment in the Government of India Act which is only a measure within a meaning of explanation II of section 124 Cri. P. Code, the speeches fall under the 2nd explanation to section 124 A. I. P. C.

10. That the speeches (not even one or any part of them) are not offensive within the meaning of section 124A Indian Penal Code.

11. That in supporting 'Home Rule for India' petitioner never intended to use nor has used any expressions offensive within the meaning of S. 124A. but is stating his case for Home Rule regarding which (Home Rule) itself the prosecution has got nothing to say and which Home Rule or Swarajya has been held to be a legitimate object by Indian Law Report 34 Calcutta 991 so that members of a public meeting may be exhorted to work for its attainment.

12. The Lower Court has misunderstood the expression 'Government established by law in British India, appearing in section 124A and it erred in assuming it to stand for 'Government' as defined in Section 17 of the P. Code.

13. The finding that the speeches or the passages quoted in the judgment are likely to create disaffection is not supported either by a proper and natural construction of the speeches as a whole, or by any direct evidence on the point.

14. That the evidence of the shorthand reporters standing by itself is insufficient in law to support the final order passed and the notes not being 'evidence' nor the translations there is no legal evidence in the case to sustain the order.

15. The 'Notes' are admittedly inaccurate and incomplete in places, they are not legally admissible as any evidence. The man who originally translated has not been examined in proof of the translation and the evidence of Mr. Thakore is not good evidence.

16. That the passages relied on by the Lower Court in support of its decision are read by the Court irrespective of their context in which they appear.

17. That in translation Marathi passages lose their real tenor and acquire a different spirit and form this the Lower Court has failed to note.

18. That the significance of Marathi proverbs and parables is not properly brought out in the translations and therefore the translations are really not a proper test to understand the passages and illustrations in Marathi.

19. That the amount of security is excessive. And that for this act of kindness Your Lordship's petitioner shall as it duty bound ever pray.

Bombay

Sd. S. R. BAKHLE,

.23rd August 1916.

Pleader for the Applicant.

Mr. S. R. Bakhle, B. A. LL. B., High Court Pleader, appeared on 30th of August 1916 on behalf of Mr. Tilak before the Hon. Mr. Justice Beamish and the Hon. Justice Sir John Heaton and argued in favour of admitting the application.

Mr. Bakhle, in the course of his argument, said that the object of the speeches was to criticise the machinery and not the Government established by law, and the question, whether they were seditious or not, ought to have been considered by taking into consideration the speeches as a whole. The translations were admittedly inaccurate.

Mr. Justice Beaman :—All that becomes a pure question of fact. The Magistrate believes it to be so and it is a question of fact whether they were or were not of that character.

Mr. Bakhle urged that he also complained of several irregularities. In the first place the complainant on whose information the summons was issued ought to have been examined under Section 117 of the Code, in order to inquire into the truth of the information upon which the action had been taken.

Mr. Justice Beaman :—There was an inquiry was there not and certain witnesses were examined?

Mr. Bakhle :—But Mr. Guider was the informant and he was not examined.

Mr. Justice Beaman :—What would be the use of examining Mr. Guider? What could you have learnt from him except that three speeches were made? The section does not state that the informant should be examined.

Mr. Bakhle :—The next irregularity is that the learned Magistrate had these speeches before him. They were tried to be proved by the short-hand notes. They are not evidence at all. They were put in merely to refresh the memory of the witnesses.

Mr. Justice Beaman :—What's wrong with that? Nobody says that they are evidence as such of the speeches. They are merely used to refresh the memory of the witnesses. There is no irregularity in that.

Mr. Bakhle :—The third irregularity was that these speeches were translated in Bombay by one person. He is not examined, but they are put in through another person and he is asked whether the translation is a correct translation.

Mr. Justice Beaman :—What is the sense in that argument? Here is a Marathi document which is translated and it is shown to a person who knows Marathi very well and he says that the translation is accurate.

Mr. Bakhle :—The other irregularity consisted in taking evidence of previous convictions of Mr. Tilak before the inquiry was over instead of at the end of the inquiry.

Mr. Justice Beaman :—There is no question of any enhancement of punishment. Besides as you stated the amount of the bond required to be executed was already stated in the notice to Mr. Tilak as required by the Code.

Mr. Tilak is well known to all and some of the incidents of his life are known to most of us. What is the injustice you complain of?

Mr. Justice Heaton :—There is not a shadow of any injustice or unfairness done or shown to your client. You may have a cause for complaint on merits.

Mr. Bakhle then read the judgment of the lower court and commented that the speeches read as a whole merely presented before the audience a scheme for the administration of the Government. Mr. Tilak wanted only a change in the administration. He distinguished between the supreme Government and the machinery used by that Government. He had no quarrel with the British Government. The change he sought was only by an amendment of the Government of India Act.

Their Lordships granted a rule in the matter.

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

### CRIMINAL REVISION APPLICATION.

No. 232 of 1916.

BAL GANGADHAR TILAK APPLICANT  
*v/s.*

KING EMPEROR RESPONDENT.

( Before the Hon. Justice Sir Stanley Batchelor  
AND  
Hon. Mr. Justice Shaha )

*Wednesday, 8th November 1916.*

The Hon. Mr. Mahomed Ali Jinnah with Messrs Joseph Baptista and Erulkar, Barristers-at-law, instructed by Messrs

Bakhale, Modak and Karandikar High Court Pleaders appeared for the applicant while the Hon. Mr. Jardine i th Messrs. Strangman and N. M. Patwardhan Barristers-at-law instructed by Mr. S. S. Patkar, Government pleader and Khan Bahadur S. C. Davar appeared for the crown.

The Hon. Mr. Jinnah addressed the Court as follows :—

Your Lordships please, in this case, my lords, the Magistrate made an order under sec. 108 of the Cr. P. C. The order runs in this way. (Reads the order as follows : ' direct that he does enter into bond in a sum of Rs. 20,000 with two sureties each in a sum of Rs. 10,000 to be of good behaviour for a period of one year sec. 108, Cr. P. C.,') Now if Your Lordships will turn to sec. 119, Cr. P. C., the charge we have got to meet is this. (Reads sec. 108 as follows : *Security for good behaviour from persons disseminating seditious matter*)—Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrates or a Magistrate of the First class specially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any who, within or without such limits, either orally or in writing, disseminates or attempts to disseminate or any wise abets the dissemination of—

- (a) Any seditious matter, that is to say,  
the publication of which is punishable  
124A of the I. P. C. or
- (b) Any matter the publication of which is punishable  
under sec. 152 A of the I. P. C., or
- (c) Any matter concerning a Judge which amounts to  
criminal intimidation or defamation under the  
I. P. C.,

such Magistrate, may (In manner hereinafter) require such person to show cause why he should not be ordered to execute a bond, with or without securities, for his good behaviour for such period, not exceeding 1 year, as the Magistrate thinks fit to fix. ) CC-0 Jangamwadi Math Collection. Digitized by Gangotri Therefore, the first thing that the Court has got

to find out is whether in this case the Appellant, by speeches, disseminates or attempts to disseminate any seditious matter. To put it shortly, whether he comes within the meaning of sec. 124 A. In this case orally speeches were delivered. Therefore, my lords, the first question that your lordships have got to consider is whether there is sedition in the words uttered in the 3 speeches which he delivered at these 3 meetings. Now, the first question that your lordships will have to consider is what does sec. 124 A say ( reads the section. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by Law in British India shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or without fine. 'The appellant is not charged with having done, what is said in this section towards His Majesty. From his finding, your lordships will see, the Magistrate holds that the 'appellant' did speak words calculated to bring into hatred or contempt the Government established by law in British India.' Therefore, the first question, which I have to submit to your lordships, is this : 'What is the Government established by law in British India ?' I submit that the Magistrate has taken entirely a wrong view of our criticism which is directed towards the Government, which, the Magistrate says, is the Government established by law in British India. The first question which your lordships will have to consider is 'what is the Government that is by law established in British India ?' Now, I shall point out to your lordships that really the Government by law established in British India is not, at all, attacked in any way in these speeches. I am going to point out to your lordships no less than 47 passages, which go to show that in these 3 speeches there is not a single word against the Government established by law.

in British India. On the contrary, in these 47 passages Mr. Tilak has made it quite clear that the British rule or the British Government is beneficial. Now, sec. 16 of the I. P. C. defines what is the 'Government of India.' Sec. 16 says "The words 'Government of India' denote the Governor-general of India in Council, or, during the absence of the Governor-general of India from his Council, the President in Council or the Governor-general of India alone, as regards the powers which may be lawfully exercised by them or him respectively." Now, as regards the words 'Government,' as distinguished from the 'Government of India,' sec. 17 says this: "The word 'Government' denotes the person or persons authorised by law to administer executive Government in any part of British India."

**Bachelor J.:** The question is whether in section 124A 'Government' is Government of India.

**Mr. Jinnah:** In sec. 17 the term is 'Government,' which is defined there.

**Bachelor J.** section 124A says 'or the Government established by law in British India.'

**Mr. Jinnah:** If you take the definition of the term 'Government,' as given in sec. 17, then in sec. 124A the words 'Established by law in British India,' after the word 'Government,' are superfluous. There is no meaning in them. Therefore, I say that by the term 'Government' what is meant is Government not in a concrete form but Government in an abstract form, that is to say 'Constitutionally established Government.' If you attack that Government in a manner which is likely to cause disaffection, then it falls within sec. 124A. If you take, my lords, first of all, 'Government,' as defined in sec. 17, then any police sepoy would come under that section. Any executive person or persons, authorised by law to administer the executive Government in any part of British India, would come under that section. Any Collector would come under it. Any individual authorised to administer executive powers would come under it, but I submit, section 17 has nothing whatever to do with 'the Government established

by law in British India.' Then, section 16 gives you another definition of the term 'Government,' but, I don't say, that definition is a definition of the phrase, 'The Government established by law in British India.' Therefore, secs. 16 and 17 do not apply at all. That is my submission. Therefore, the only authoritative pronouncement on this phrase, 'Government established by law in British India,' as far as I am able to see, is given by Mr. Justice Batty in 8 B. L. R. 438. (Reads the page from about the middle downwards). Your lordship will see that, according to Mr. Justice Batty, it is an abstract conception which is called 'Government.' (Reads the page further).

Batchelor J.: That is quite so, no doubt. I only want to test your argument about secs. 16 and 17 as regards the word 'Government established by law in British India.' In sec. 1, what is contemplated by the term 'Government' is a collective conception. This is my idea that "Government does not mean individual or individual officials;" Government is an abstract conception. Mr. Jinnah: Then, your lordships will see what he says later on. Reads further from the judgment of Mr. Justice Batty.) According to Mr. Justice Batty 'Government' does not mean that it is transitory, occasional and temporary, but that it is vital and permanent. My submission, therefore, my lords, is this that the speech that Mr. Tilak made are nothing but a criticism of certain system of administration and not of the whole administration. Remember this also that he is only dealing with a certain portion of the whole system of administration, such as, the Military Service, the Forest Service and so forth. Mr. Tilak deals with one part of the whole system of administration, which is the Civil Service and which, in India, constitutes the Bureaucracy. The whole of the criticism, the whole of the comment, is directed towards that part of the whole system of Government. The comment is directed towards a particular phase of the system of administration, namely, a particular specified phase of that system, namely, the Bureaucracy having

the monopoly of all the powers and being not responsible to the people.

Batchelor J.: Then you don't say that the whole of the Civil Service should be abolished, but that it should be brought under control?

Mr. Jinnah: Brought under control of the people and made responsible to the people.

Batchelor J.: Yes, you don't say that this Service should be done away with. You want Officers, you want men to carry on the administration. What you really criticise is that under the present constitution of the Government of India the Bureaucracy are not under the control of the people and are not responsible to the people, and that they should be brought under the control of the people and made responsible to the people and should not be done away with entirely?

Mr. Jinnah: Yes. Now, if your lordships turn to the Explanations to section 124A, you will find that the Magistrate was wrong in giving the meaning that he has given to the word 'disaffection,' as defined by Mr. Justice Stratchey.

Batchelor J.: Yes. You have the expression 'disaffection' defined. (Reads the definition of 'disaffection'.)

Mr. Jinnah: It must be something active, something more than a passive feeling. Your lordships will find that in Explanation 2 to section 124A. (Reads it). My submission, my lords, is this that you should read the speeches of Mr. Tilak as a whole. I dont think it will be disputed; it is laid down over and over again, that you cannot look at a passage here and a passage there, but that you have to read the whole speech, and reading these 3 speeches as a whole, my submission, my lords, is this that they are nothing but a comment or an expression of disapprobation of the measures of Government with a view to obtain their alteration by lawful means. In this case the next point I have to establish is the point of intention. Your lordships will remember that in every criminal case, ~~and I as should say the~~ <sup>the</sup> ~~more so~~ <sup>Digitized by Google</sup> ~~as~~ <sup>Digitized by Google</sup> character the intention of the writer or speaker is absolutely essen-

tial. It is of the utmost importance. You must, first of all, be satisfied that the writer or speaker has intended to cause disaffection, and how are you going to be satisfied? The intention must be gathered from the writings or speeches themselves. If you look at these speeches, the 'onus' really is on the prosecution to prove the intention. With regard to this question of intention, I can also point out to your lordships no less than 47 passages, which I have picked out from the speeches and which go conclusively to show that there is no doubt, my lords, that there is not the slightest doubt than Mr. Tilak never intended to cause disaffection towards Government established by law in British India. There is one more thing that I ought to say before I come to these passages. You will remember, my lords, how these speeches are before you now. When the speeches were delivered, the shorthand writers, the C. I. D. shorthand writers, were there and they took down the notes in short-hand. Of course, strictly speaking, those notes can be utilised for refreshing the memory and nothing else. The substance of the speeches generally is correct. Mr. Tilak himself admits that. Your lordships will agree with me to this extent that in a speech taken down by a short-hand writer, a wrong phrase here or a wrong phrase there or a wrong word here or a wrong word there makes a lot of difference in a particular passage, and, therefore, I ask your lordships to take these speeches as a whole. I ask your lordships to read the speeches and examine them. There is no doubt with regard to the translation except that of some words.

Batchelor J.: This is what you mean to say: that the speeches must be read as a whole to find out what the speaker means.

Mr. Jinnah: Yes. There was a great deal of discussion with regard to the translation of certain words. The translation of those words was challenged.

Batchelor J.: This is what you say: we have to remember that we should take the passages as a whole and not look to

the translation of any particular words. We both have read the 3 speeches. You may argue on that footing. We dont want to shorten your argument.

Mr. Jinnah: Then I wont read the speeches. I ought to draw your lordships' attention to the Government of India Act of 1915. With regard to that my submission is this that you will find there what is meant by the 'Government established by law in British India.' (Reads a section of the Act.) First of all, you have His Majesty the King-Emperor. There is no complaint about that (Reads sections 1 and 2 of the Act.) Your lordships will see that the 'Government of India by law established in British India' is really, first of all, the King himself and the Parliament also, because the Parliament, that is the British Parliament, has got certain powers. Then, what is done is this ; certain powers are delegated to the Secretary of State for India only for a certain purpose. (Reads section 2 of the Act.) Then, you have the Governor-General in Council. Then, I will ask your lordships to turn to section 33 of the Act. (Reads it.) Here, the important words are 'Vested to maintain the law.' Therefore, as I am telling you, my lords, strictly speaking, if you take, first of all, Justice Batty's judgment, you get this that the 'Government established in British India by law' is really the King-Emperor and Parliament, which gives certain powers to the Secretary of State for India and only certain powers of superintendence, direction and control, are given to the Governor-General in Council. Therefore, you cannot possibly go beyond the very words 'The Governor-General in Council' ; that is the Government. Then you have various Services for instance, the Military Service, the Forest Service and the Civil Service. I say it is open to an citizen to say that a particular Service should be removed in a particular way. I submit any individual is entitled to criticise any Service even unreasonably, then he does not cause disaffection against the Government established by law in British India. Then, my lords, with regard to the question of intention, I may also point out to your lordships a passage in the Laws of

England' by Lord salisbury, Vol. 9, p. 445. A Seditious intention is an intention—(1) to bring into hatred or contempt, of to excite disaffection against, the King or the Government and Constitution of the United Kingdom, or either House of Parliament, or the administration of Justice (n); or (2) to excite the King's subjects to attempt, otherwise than by lawful means, the alteration of any matter in Church or State by law established; or (3) to incite any person to commit any crime in disturbance of the peace; or (4) to raise discontent or disaffection amongst his Majesty's subjects; or (5) to promote feelings of ill-will and hostility between different classes of such subjects.

But an intention is not seditious if the object is to show that the King has been misled or mistaken in his measures, or to point out errors or defects in the Government or Constitution with a view to their reformation, or to excite the subject to attempt by lawful means the alteration of any matter in Church or State by law established, or to point out, in order to their removal, matters which are producing, or having a tendency to produce, feelings of hatred and ill-will between classes of the King's subjects.

In this as in other offences the person is deemed to intend the consequences which would naturally follow from his conduct at the time, and in the circumstances, in which the words were used.

He, first of all, deals with what is sedition. There is no much difference between the law of sedition in England and here. This is what he says. (Reads P. 463 already mentioned.) Here the important words are 'the State by law established.' That is certainly an abstract conception of the term 'Government.' Therefore, my lords, the prosecution have got really to satisfy your lordships that Mr. Tilak's intention is what they say it is. The Magistrate says in his judgment, will point out the passage to your lordships when I come to deal with the judgment—that, no doubt, Mr. Tilak was criticising the measures of Government, but that, to that extent, b

was only using the argument as a mere cloak. I say, the prosecution have got to satisfy your lordships what Mr. Tilak's intention was. It is no use saying his argument is a mere cloak really to cause disaffection and to bring hatred or dislike, in the minds of his hearers, for the Government by law established in British India. I will tell your lordships what the intention of Mr. Tilak was when he delivered these speeches. First of all, your lordships will remember this that the Home Rule League is established at Belgaum. That is admitted. There is no doubt about it, and, of course, in the Lower Court, Mr. Binning said he would not express any opinion about this movement at all, and, therefore, I take it that the Home Rule League is not an unconstitutional organisation and that there is nothing against it. Now, what happens? Mr. Tilak goes to Belgaum, and in Belgaum what does he do? He makes a speech, and the object of his making the speech was to convince his audience that the Home Rule League was a good thing. He began to tell his audience clearly that he wanted to convince them as to 'what we are asking for? What is the thing that we ought to have?' And Mr. Tilak wanted to convince the audience in this way in order that the audience might become members of the League, and, of course, it is always desirable to have members and to get subscription for membership. That is the object with which Mr. Tilak was giving these lectures. Therefore, I say, Mr. Tilak had no particular object in having the intention at this juncture to disseminate sedition. His object was a definite object, namely, to try to convince people that the Home Rule League organisation was a good thing. Now, your lordships, we will take the first speech. What he does in this speech is to divide the Government into an 'Invisible Government' and a 'Visible Government'. Then he says 'The question of "Swaraja" is not about the Emperor, not about this invisible Government.....' So far as the Emperor is concerned, Mr. Tilak has nothing to say against him. He distinctly says that fanatical nations never rise and that there

must be a Government. Now, I ask your lordships the simple question : ‘Can you imagine a lecturer, starting with the praise of the British Rule, can ever possibly create prejudice against the British Rule in this country and yet put before his audience these ideas of advancement “through their sympathy, through their anxious care, through their high sentiments ?” He says these things about the British Government and then he says ‘this is how we have to secure our own good.’ This is really what he says to effect his purpose. Does a man, starting with these words really want to cause disaffection ? Remember what he further says : ‘It is an undoubted fact that we must secure our good under their protection.’ My lords, can that be disputed by anybody ? For the people of this country must try and seek their own good with the aid of the English nation. Then he says ‘One Government will remain invisible Government, and the visible Government changes every moment..... We do not wish to change the invisible Government-English Government.’ Here he gives his abstract conception of what he wants to remain and what he wants to be changed. Next he says The “Swaraja” agitation, now existing in India, is for the change of the Ministry... We want to remain under the shelter of the English rule.’ My lords, the audience must be really the most perverted to be disaffected against the British Rule when the speaker, remember, my lords, throughout his speech, does not say a single word against the British Government. Here are the passages which I have picked out from the speech which are pregnant with the admissions that I have read to your Lordships. If the man wanted to cause disaffection, he would have done so in the very introduction of his speech, and he would have gone on hammering and setting out the object which he had at heart. But that is not the case here. Here you find my lords, at various stages of the speech sentiments are brought out and attempts made to make it clear as to what his object was, namely, to object to the present system of administration. He says :—“We do not want this system,... I am sure that

the grace of God your next generation will not fail to obtain the fruit of this work, though it may not be obtained in your life-time.' My lords, this is Mr. Tilak's first speech. Now, there are 24 passages in this speech; I have numbered them, my lords; they are not at the beginning or at the end; they are spread out throughout the speech, at various points, where he wants to make it clear what he really wants, namely, a change in the system of administration and nothing else. Now, let us turn to the objections raised to this first speech. If your lordships will turn to the speech, you will find that some of the objections made by the prosecution were really under some misconception of what the speaker really meant. Turn to page 22 to see their objection. I think, my lords, I don't see how I can avoid reading the speech; I must read it that is the only way of dealing with it.

Batchelor J : Read all the 3 speeches. I don't wish you to shorten your argument. If you want to read these passages, do so ; we are entirely in your hands.

Mr. Jinnah: My lords, if you turn to page 22, line 37, there Mr. Tilak says what 'Swaraja' is. He asks 'What is "Swaraja"?' And he makes his meaning clear from line 50. He says. Those who are ruling over you do not belong to your religion, ... It is carried on through those who are now servants, (viz.), the State Secretary, Viceroy, Governor, below him the Collector, the Patil, and, lastly, the police sepoy. 'Now, my lords, if you say you object to any particular official or a particular member of Government or the Secretary of States, is that sedition? Is that wrong? Is there anything wrong? All that he says is that if you want really to do anything, at all, you have to go to the Collector, you have no power yourself; you cannot manage your own affairs. We want a better arrangement than that. We want to have our little finger in the management of our own affairs. Then a great point was made of the passage. 'I am so much educated, I get so much pay, I possess so much ability-why should I do any thing which would be harmful to others? The only an-

sver is. "Because you have such conceit. There is one way, there is no rule about it. He whose belly is pinched has experience about it." Now, my lords, that word 'conceit' ought to be "overconfident."

Batchelor J.: We have nothing to do with what the word means. It may mean conceit or overconfidence.

Shah J.: What is the original for 'conceit?' I cannot make it out.

Mr. Jinnah: 'Ghamend.'

Batchelor J.: Speaking entirely for myself, it does not matter whether the word means 'conceit' or 'overconfidence.'

Mr. Jinnah.: 'Conceit' is more offensive.

Batchelor J.: It may be offensive, it is no concern of ours.

Mr. Jinnah : No. This is one of the passages to which the prosecution object, I dont know, my lords, what is wrong in it. Another thing which they complain of is the passage 'he whose belly is pinched has experience about it.' I think my lords, obviously this is not properly taken down. What Mr. Tilak means to say is that when anything is asked from the officials, they are so overconfident that they do not listen to us. Therefore, he says that he whose belly is pinched has experience.

Batchelor J.: You see, we say in English 'it is the wearer of the shoe that knows where the shoe pinches.'

Mr. Jinnah.: Quite so, that is it. Some of the officials are overconfident about their own management, which they are perfectly honestly doing their best to keep properly, but they cannot realise what defects the people of the country see in the management.

Your lordships then comes is the story of the three rogues referred to by Mr. Tilak. Of this story the prosecution complain strongly. This story of three rogues is, my lords, not intended to apply to the English people. It is really intended to apply to those, who are really the opponents of the Home Rule League organisation, and if you read that passage in the

speech very carefully, you will see that what Mr. Tilak is driving at is this. He says 'I say the Home Rule League is a good thing. I want you also to agree with me.' His object is to persuade people to join the League, to become its members and not to become simpletons like the gentleman in the story of the three rogues, occurring in the Panchatantra, because says he 'People will come and tell you all sorts of stories against the Home Rule League organisation.' This is, my lords, the story of the 3 rogues, which is given in this speech : 'A villager had come taking a sheep on his head. One rogue said to him "there is a she-goat on your head." The second said "there is a dog on your head." The third one said quite a third thing. He threw away the sheep. The rogues took it away. Our condition is like that.'

Batchelor J. : This story is a sort of a story reported in one of the Law Reports ?

Mr. Jinnah : This story has been told in the Legislative Council.

Batchelor J. : This story is symbolic ? The man is carrying something ?

Mr. Jinnah : It was a real sheep.

Batchelor J. : Yes. He met three men one after another ?

Mr. Jinnah : Yes, and one of them said it was a dog, and the other man said it was something else. The man, who carried the sheep on his head, was a such a simpleton that he was confused and he threw the sheep away from his head.

Batchelor J. : The man met three men one after another ?

Mr. Jinnah : Yes. After they had told him in 3 different ways that it was not the sheep that he was carrying on his head, he threw it away. Mr. Tilak says to the audience 'Don't be such simpletons.' Mr. Tilak does not use the term rogues in respect of any particular race or a particular class of people or a particular community. The term is used against the opponents of the Home Rule League organisation. Remember, my lords, this story was used by Dr. Bhandarkar in the Legislative Council.

**Batchelor J.:** There is such a story told of a man called Montgomerry in one of the plays of Shakespeare. (The story was briefly related here.) What I think is the meaning of this story is this: 'If you think this is a good thing, you must not give up that good thing, simply because a succession of persons comes to you—first the one, then the second, and after him the third—and says 'this is this, that or the other.'

**Mr. Jinnah:** Yes, that is right. Now, instead of carrying the sheep on his shoulders, Mr. Tilak wants to carry the Home Rule League organisation. (Laughter.) He says to the audience 'Here is my League, it is a good thing, I don't care what a succession of people may tell you one after another against it.'

**Shah J.:** Is not the gravamen of the offence there that he likens those who take a different view to his own to the 3 rogues in the story?

**Mr. Jinnah:** That is not sufficient. I don't know what the prosecution really say about this. The story applies to every body who is an opponent of the Home Rule League organisation.

**Mr. Jardine:** So far as one can make it out the 'three rogues' represent the people who protest against the Home Rule League organisation, and they are so called because they do it knowing it to be a good thing.

**Mr. Jinnah:** First of all, my lords, my submission is this that this story is used absolutely innocently. It does not mean that what other say is dishonest. Your lordships will find that even Dr. Bhandarkar, in the Legislative Council, has used this very story against those certain honourable colleagues who said the University Bill was not a good thing. Dr. Bhandarkar told this whole story in the Legislative Council and said 'I don't like to be such a simpleton as the man in that story and I will not drop this thing, because there are certain colleagues who say it is not a good thing.' Do your lordships think Dr. Bhandarkar was there guilty of eve[n] discourtesy?

Batchelor J.: We have got nothing to do whether it is discourteous or not.

Mr. Jardine : The appellant calls the people cheat who don't want this thing by repeating the story of the three rogues.

Mr. Jinnah : I don't wish to take up your lordships' time if your lordships have understood it in that way. I don't want really to trouble your lordships. Reading the whole of that passage, it may be discourteous.

Batchelor J. : We are sitting here as Judges to see whether a criminal offence is committed or not. We have nothing to do with courtesy or courtesy.

Mr. Jinnah : Then, I won't trouble your lordships with the passage.

Mr. Jinnah : "Your Lordships remember, Mr. Tilak is here trying to meet the argument of unfitness, and he says this 'why is it we are not fit?' And he says that the Hon'ble Sir S. P. Sinha and other members of the Executive Council did not say they were not fit when they were offered their posts. Further, Mr. Tilak refers to the condition of service of the Assistant Collector of the age 21 and the Mamlatdar of the age of 60 who has to become the subordinate of the young Assistant Collector. What Mr. Tilak says is this that under the present system of administration what happens is this that you get young men to come out, at the age of 21, as Assistant Collectors, and they are given large powers, larger than the other officers like Mamlatdars, who are men who have so much more experience. That is the only argument that Mr. Tilak is using in this passage and, I ask, my Lords, 'why should this illustration be construed, in the name of goodness, into sedition against Government?' Mr. Tilak points out the experience of one officer compared with the experience of other, and tells you how the system is working.

Batchelor J. : Subject to what the Advocate-General may say, we do not think there is anything in that.

Mr. Jinnah: The Lower Court said on this point that this passage was a sort of an insinuation that the Bureaucracy thought that they are the repositories of experience. That is not so. What Mr. Tilak says is this: 'At the present time, science has made progress, knowledge has increased and experience has accumulated in one place; therefore, we are to-day more fit to be given the management of our affairs, than we were before, because now we have got experience, we have got knowledge.' My Lords, this is Mr. Tilak's contention. If a man criticises a particular system of administration, if he wants to make out a case that the system is a bad one or a defective one or one that is not conducive to the good of the people, if a man finds fault with such a system, how else is he to describe it? And, then, Mr. Tilak says 'Better say "it is not to be given." What he means to say is this 'say straight way "we won't give it.'" Then, he further says 'what I say is, "don't apply the words *Not fit* to us." This, my Lords, is Mr. Tilak's last argument: He, no doubt, argues here with anger when he says 'Better say "it is not to be given." What I say is "don't apply the words *not fit* to us. Dont say we are not fit." Then he says 'but how long will you teach us—for one generation, two generations, or three generations? Is there any end to this, or must we, just like this, work under you like slaves till the end? Set some limit.' My Lords, Mr. Tilak says all this because he wants to strengthen his argument that 'we fare fit.' This, my Lords, is the passage which was complained of. Then you turn to the next page half down the 29th page.

Batchelor J.: In the middle on page 29 Mr. Tilak says 'Hence, the only object in saying that the Indians are not fit to carry on the administration is that they are always to be kept in slavery, that they are to be made to do work by labouring like slaves, and that the ways, whereby their intellect and their ability may be developed, are to be stopped.' This is a passage which seems to us dead against you.

Mr. Jinnah: In this passage, my Lords, Mr. Tilak is dealing with the argument of unfitness. He argues that it is

not correct that 'we are not fit.' He says at the top of his page 'What is going on in the *Khalsa* territory?' Then he takes the example of the Mysore State. He says that that State is only almost next door to Belgaum, and there you, find that the whole administration is managed by the Indian people, and, therefore, asks Mr. Tilak 'why are we not fit when the next door neighbours are?' He says 'The king of Mysore is a Hindu, the Minister is a Hindu, the subjects are Hindus, the Lower officers are Hindus. They carry on the administration of such a large kingdom of Mysore, but it is said that the people of the two districts (British) beyond Mysore cannot carry it on in that manner. There are six districts in the Mysore territory, hence it is like saying that six are fit and eight are not fit.' Thus, my Lords, is another argument on the point of fitness. Then further on he says 'leave these districts to us, and see how we administer them.' He further says 'keep yourself aloof for ten years and see whether it can be done or not. If it cannot be done, take us under your control after ten years. You are free to do so.' My Lords, he says 'leave the districts to us for ten years, and if you find that we cannot administer them properly, then take them away from us straight off. Take them straight away from us after ten years if we have made a mess. My Lords, Mr. Tilak is here arguing with the objectors, who say that Indians are not fit to carry on the administration, and he asks if Indians are always to be kept in slavery. My Lords, the term 'Slavery' is here used as political slavery, that is to say, that in the present conditions of the political rule people are to get no rights. It is not 'Slavery' in the sense that we understand it as meaning 'Gulamgiri.' You know, my Lords, that when a man gets very angry he says 'I am not your "Gulam", please.'

Batchelor J.: When a man is angry he says 'Am tumara Gulam naihai.'

Mr. Jinnah: When a man gets angry and says 'I am not your *Gulam*', he means to say 'I am not to follow your behests.'

Batchelor J.: When you are angry with me and say 'I am not your Slave,' you mean—

Mr. Jinnah: What Mr. Tilak says is this 'hence the only object in saying that the Indians are not fit to carry on the administration is that they are always to be kept in slavery, that they are to be made to do work by labouring like slaves, and that the ways, whereby their intellect and their ability may be developed, are to be stopped.' What, my Lords, Mr. Tilak's argument is, is this 'If I am fit, you go on using all sorts of arguments and illustrations and so on, and so on, and to say I am unfit.'

Shah J.: You mean to say it is an expression of impatience with the other side?

Batchelor J. I remember reading many years ago the *Aesop's Fables* in Marathi, where I have read word for 'moral,' which is 'Tatparya'; that word means rather the result than the motive.

Mr. Jinnah: The exact equivalent would be 'upshot.'

Mr. Jardine: It does not mean 'Upshot.' It comes nearer to 'The object.'

Mr. Jinnah: Your Lordships will remember this passage is not directed towards the Government. It is really directed towards the objectors. Mr. Tilak does not say, my Lords, for a moment, that it is, the Government that objects. You will see my Lords, that he makes that clear that the objection does not come from Government. He makes that clear. He includes among the objectors both Indians as well as Englishmen. He does not confine his remarks to one class. Then, he goes on to say 'What do we ask for? Do we say "Drive away the English Government?"' Further he says, 'From whom then does this opposition come? This opposition comes from those who are in power,' that is, he means, the people who are carrying on the Government—the members of the Civil Service. He says: 'It does not come from the Emperor.'

This argument is brought forward by men whose interest lies in deceiving you. Do not care about it at all. 'This

argument, says Mr. Tilak, is brought forward by some whose interests are opposed to public interests, and who are those people? Those are the people, he says, who are in power and who happen to have the monopoly of power at the present moment, and this, says Mr. Tilak, he wants to be changed. It is not attack, I admit, my Lords, on Government as Government established by Law in British India.

Batchelor J.: The passage is used in the sense that it attacks those whose interests are opposed to the country's interests.

Mr. Jinnah: Then, I dont think I need trouble your Lordships with the rest of that page, because there is no complaint about it. At page 30 they complain about the whole of that first paragraph. There, again, my Lords, what Mr. Tilak is doing is to give a historical quotation as to what the Government was before the Queen assumed the reign of the territories in India.

What Mr. Tilak says is this, that 'the Proclamation has remained ineffective, and you have the roots or the foundations of the system, which existed at the time of the Company's rules, still existing.' He says 'these roots and foundations still exist, and, therefore, it is not good. That is the whole of his argument throughout the speech, if you read that speech, my Lords, you will see that what he says is that you had the Company's rule which was based on purely commercial principles in India. Then he says that in the place of the Company's Board of Directors you have got the Secretary of State. That is perfectly correct, if you look to the Act of 1858. Formerly, all the powers, which are now vested in the Secretary of State, were vested in the Company's Director. I want to draw your Lordships' attention to what Mr. Tilak says in this page. He says 'The Sovereign'—The Parliament took the administration into their hands, but the establishment of employees, which then existed, has remained just as before.' That is perfectly correct. 'Therefore,' says Mr. Tilak, 'the roots or foundations of the old system were continued, so that, the establish-

ment of employees, which then existed has remained just as before.' His object is to say that the roots or foundations of the old system have continued since 1858. Then we come to page 31. Mr. Tilak says 'To put the matter very briefly, Mr. Dadabhai Nawroji, who is one of those living persons who saw this arrangement and pointed out its defects, began this work.'

Batchelor J.: What is objected here?

Mr. Jinnah: The whole of this passage is objected to.

Mr. Jardine: I rely on the preceding page and the top of this page and lower down of this page also.

Mr. Jinnah: Mr. Tilak says further 'Then arose these Legislative Councils..... We shall publish them in the 'Bombay Government Gazette.' 'This is the only difference. Nothing is got from this.' My Lords, here, Mr. Tilak is dealing with the question of the Legislative Councils having power to make speeches only. He says they can only make speeches which, instead of being published in news-papers would be published in the 'Bombay Government Gazette.'

Batchelor J.: What is objectionable here?

Mr. Jinnah: I don't know what they really object to. This was the passage objected to. In this passage Mr. Tilak further says 'The hope of getting is held out..... Thus, this Bureaucracy has been cajoling us.'

Batchelor J.: Was this passage objected to in the Lower Court?

Mr. Binning: Would your Lordships allow me to explain what happened in the Lower Court?

Batchelor J.: No.

Mr. Jinnah: I don't know whether they object to the words 'Thus this Bureaucracy has been cajoling us?' By these words Mr. Tilak means that 'The Bureaucracy are putting us off.'

Mr. Jardine: I object to the passage in the middle, where Mr. Tilak says 'The hope of getting is held out. There is a shlok (Stanza) in the *Mahabharat*, which says "Hope should be made dependent upon time," and a few lines later on,

Mr. Jinnah : What does this passage come to ? It comes to this that ' Some arguments are advanced in one respect or another. We are told " You are not fit." Our demands are put off. My Lords, does it cause disaffection towards Government to say ' We make these demands ; right or wrong, we make these demands, these are our demands, which are being put off. They are being put off on some excuse or another.' Is this argument, my Lords, likely to cause disaffection ? Is this whole paragraph such as would entitle the Court to say to a man ' You are guilty under section 124 A ? ' What is wrong in saying that ' our demands are being put off by the Secretary of State for India ? ' It may be that the demands may be right or the demands may be wrong, but is it wrong to say that ' our demands are put off ? ' I don't think there is any complaint about the remaining passages on this page. Then, your Lordships, we come to page 32 ; this is what is really complained of, namely, ' We do not want the State Secretary, who has been created as a son-in-law.' Your Lordships, while reading this speech, should remember that what Mr. Tilak means is this that the Secretary of State as an individual, is like the son-in-law, which is an Indian phrase and means that the man has got no right '*de jure*' but '*de facto*.' He is in your house simply because he has been married to your daughter. He is in reality a boss in your house, simply because he has been married to your daughter. This is an Indian idea, meaning a man who has got no legal rights, but who still, somehow or other, makes himself master of the situation. My Lords, when, in this passage, Mr. Tilak says ' For the last five or fifty years the State Secretary and the Governors-General have been cajoling us in this manner—have kept us afloat,' what he means is this that you have got the State Secretary or the Governor-General who cannot do anything. They are nothing but agents and responsible to no one, in fact, though, in theory, to Parliament. If Mr. Tilak says in this passage that this state of things is intolerable, what is wrong CC-1. Unported Material. Digitized by eGangotri

India's position, under the present conditions, is intolerable? 'Learned aliens may tell us when we are passing like this through this door, that we should not pass through this door but through that; but, if anyone comes and stands there and (begins to) tell us not to go through it, then we have to go out by giving him a push. The very same is the case with "Swaraja." ' This is the obstruction of the Bureaucracy. We do not want such obstruction.' My Lords, I tell you what Mr. Tilak's idea is. His idea is this. Mr. Tilak says 'Now, this is our position. This is what we want. We want to have "Swaraja," and, for that purpose, we want this Home Rule organisation.' My Lords, here, Mr. Tilak makes it clear as to what his position is as regards the Home Rule League organisation. He says he has a reform to be brought about by going to Parliament. He says 'We want to go through this door—the door of Parliament; we want to follow this road. We don't follow another road.' Then he says 'The very same is the case with "Swaraja." ' This is the obstruction of the Bureaucracy. We do not want such obstruction.' What he means to say is that 'there are two methods by which Indian reform can be secured, and one of them is to go over the head of the Bureaucracy, to go to Parliament. Either go over the head of the Bureaucracy or go through the Bureaucracy. I am going to follow this road of Home Rule League organization, I want it to go to Parliament. I don't want the road of the Bureaucracy, because there may be an obstruction; I don't want that obstruction, therefore, I want to go over the head of the Bureaucracy.' I think, there is something missing, my lords. His idea is this, that the 'Bureaucracy tells us "don't do this; don't do that; you go through this road;" I want to go through the other road.' That is what he means when he says 'Learned aliens may tell us, when we are passing like this through this door, that we should not pass through this door but through that; I prefer to go through the other door, namely, to go over the head of the Bureaucracy to Parliament.' Further, Mr. Tilak says 'the demand for Swaraja is such

that it has nothing to do with sedition, it has nothing to do also with the invisible Government. This domestic arrangement should be managed by you yourselves, and, by doing so, what will happen is that, in the first place, your minds will remain in peace.' Then, my lords, there is a complaint made about what Mr. Tilak says at p. 32 :—' But now the principal question is 'Who told them to come here from there? We did not call them.' That is really the very old, old argument used when a man says that he has come from cold climate to the hot climate and has got his health spoiled.

There, my lords, he is making out a case for Home Rule. Now, my lords, read that speech as a whole, and see what the result is—whether the result is such as must lead any member of the audience, who has got any intelligence, at all,—with regard to those that have got no intelligence, it does not matter—take the case of intelligent persons and see whether the result would be such as to lead them to entertain feelings of disaffection towards British Government. Undoubtedly, throughout the speech there is a condemnation—a direct condemnation of the system which prevails, at present, in the whole administration of this country, which is only a part of the Government, and Mr. Tilak says that that system should be changed, because that system is bad, and, for that purpose, he further says, 'We want to go to Parliament, we want to petition the British nation, we want to petition the British Parliament to have that Act changed.' I ask, my lords, what is wrong in that? Why is that sedition? You may find an expression here and there very strong or very discourteous, but it is not seditious. And when you are making out a case for the notice of the audience, when you are criticising a particular measure, my lords, you cannot help advancing arguments, which must be telling arguments. You cannot help advancing facts and evidence in support of the case which you are making very strong. I quite agree with your Lordships. Your Lordships have <sup>CC-O. Lankavasi May Collected Works, Ganganagar</sup> got something to do with how strong the argument may be, how dis-

courteous it may be, or even if it is offensive, so long as Mr. Tilak has not done what is prohibited by sec. 124A. If you read the whole of the speech, you will see that it does not cause disaffection towards the Government established by law in British India. Then, my lords we come to the next speech. The first passage is this:—‘The question is always asked..... this is an honour to them, but should we not tell it to do those things which it does not do?’ I only want to point out to your lordships that Mr. Tilak had no intention to cause disaffection; it is a very essential ingredient to find out whether the man intended to cause disaffection or not, and that can be gathered from his speech. You have this passage clearly to indicate what the state of his mind was, what the intention of the man was, what his ‘mens rea’ was. You have to find the intention from the language, and if you look at the language in this passage, you will find that it does not show you that his intention is to create disaffection towards the Government established by law in British India. The whole of the second speech shows that he does not come within the section of sedition. And what is sedition really? Sedition is nothing but slander. Sedition is slander of Government. This speech clearly shows that when Mr. Tilak delivered this speech, he had no intention to cause disaffection in the minds of his hearers towards Government. He distinctly says in the speech,—‘Do not think that I am speaking only about the whites, we do not want this system.’.....

**Batchelor J.:** There is a passage at page 35 which seems to us to be against you. It is about the middle of the page:—‘Such has become the condition, that such things, as would be beneficial to the country cannot be carried out.’

**Mr. Jinnah:** My lords, he says ‘the business of commission agency has remained, but what has happened in it is that the profit which this country derived from it, is lost to us and goes to the English. The thing is that the men and the business are the same as before, but owing to a change in the ruling power, we cannot do some things. Such has become the condi-

tion that such things as would be beneficial to the country cannot be carried out.' I think this sentence is not properly translated. He further says 'At first, we thought that since the English Government was (as) a matter of fact, alien, there was no sedition in calling them so...If anybody has charged this Government with being alien, he has done so in the above sense.' Now, my lords, what does he mean by this passage? He is trying to define 'alien' according to his own ideas, and his idea is that a man is an alien not because he does not belong to the same religion or race or caste or creed or colour as himself, but a person who does not wish good to India. That, I submit, my lords, is the whole summing up of Mr. Tilak's argument.

Batchelor J.: The speaker says that a man is not alien merely because he differs in religion or colour or religion or caste; he calls a man alien whose interests are opposed to or counter against the interests of the people of this country. He means 'Government is alien' in that sense.

Mr. Jinnah: I submit he does not say that. You see, the whole of his point is this that in India the administration is not carried on to the benefit of the people; he says that the way in which the administration is carried on is not to the benefit of the people, at the present moment, and he does not say that a man is an alien, because he belongs to a different religion or caste or race or colour or anything of that kind. He also says that here is a certain system which is managed by a certain class of men who have got vested interests and, therefore, are not really doing good to India. He has not said this of the real Government, of the British Government, for that you have got to read the whole speech.

Batchelor J.: He does not say of the King, but he says of the Government, he means 'Government is alien.'

Mr. Jinnah: He does not mean the Government established by law in British India. He is referring to certain number of persons, who are managing the administration of the country.

Batchelor J.: I suppose what was held against you by the Court below was the words 'The king looks to his own benefit, to the benefit of his own race, and to the benefit of his original country.' What have you to say to that?

Mr. Jinnah.: What Mr. Tilak says is that that king is to be considered alien, who does not do his duty and that the king who does his duty is not an alien. If a man does not do his duty and if he is such a man as would come within this description then, no doubt, he is an alien. He is an alien who, no matter what his religion, what his caste, or what his creed, who does not do his duty. Therefore, the king, who does his duty is not an alien, no matter what his race, or colour or religion or creed. Only he is to be considered an alien, who does not do his duty. That is perfectly true; for a person who does not do his duty, in a sense goes against the interests of India, and so, says Mr. Tilak, is an alien.

Batchelor J.: Look at the bottom of page 35, (Reads "Government is alien.") This Government is not for our interest but for its own interests and, in that sense, is a foreign Government. That is the obvious sense of what appears at the bottom of page 35?

Mr. Jinnah.: I say, my Lords, that is, no doubt, a criticism of the Bureaucratic system of administration. He says he has a complaint against that system of administration.

Batchelor J.: Against which system of administration?

Mr. Jinnah.: Against the Bureaucratic system of administration. If you read the whole of this passage, I say, you will see that Mr. Tilak is attacking this system of administration. He says 'this particular system of administration is in the hands of a certain number of people.' My Lords, I dont want to shelve the answer. What I understand the meaning of this passage is this. That Mr. Tilak very clearly says.—'This particular class of administrators have got vested interests. Their own interests are opposed to the interest of the people, and, therefore, he says.—' You place this com-

plaint of yours, this grievance before Parliament, and ask for the alteration of the system, because, the administrators are not under the control of the people, are not responsible to the people, and have got to look to their own interests, which interests are antagonistic to the interests of the people.'

Batchelor J.: The whole question is whether it is not the case that this article creates disaffection in the minds of the hearers. That is the point. If it does, it comes under the section.

Mr. Jinnah : My Lords, first of all, let us consider this. What Mr. Tilak tells his audience is this. 'The British Government is the best Government for us. The British Rule has been most beneficial to us. We have really to make progress under the protecting hand of the British Rule, but we have got this iron wall, namely, this particular system, which is a part of the government in this country. This system of administration of the country is in the hands of a certain set of people who, in my opinion, cannot possibly do justice to our demands ; it is a form or a sort of an interested system of Government, which has got its own interests to look to and which, therefore, cannot possibly do justice to our demands and cannot treat us conscientiously. Therefore, we say that this system ought to be changed.' Is that sedition, my Lords ? Is that sedition, is that really causing disaffection towards the Government established in British India by Law ? What is the idea of sedition, my Lords ? Your Lordships know the root idea of sedition, which is that certain results must follow your writing or speeches. That was the root idea of sedition, that is to say, what a speaker or writer says or writes must bring about certain results,—revolution or a state of things not compatible with the existence of lawful authority.

Batchelor J.: The question is whether it may bring about a feeling of enmity towards Government or a feeling of dislike towards Government. The question is whether he is trying to bring about enmity towards Government. I want you to answer this question. What would be the effect of this

attack on Government in the presence of a Maratha audience of intelligence—would it be to excite a feeling of enmity against Government, what is your answer to that question?

Mr. Jinnah: If it was an intelligent audience, they would have understood what the object of Mr. Tilak was in making these remarks. They would certainly have entertained a feeling of enmity towards Government. This intelligent audience would have said 'Let us put our heads together and see whether we can change this system of administration, that is a stumbling block in our way.' I say, no intelligent audience would have been disaffected by this speech.

Mr. Jinnah: My lords, the word 'Sarkar' is translated as 'Government.' But, I submit, if you read the speech from beginning to end, you will see what the point is of Mr. Tilak.

Shah J.: The original word is 'Sarkar.'

Mr. Jinnah: My lords, I have heard the Mamlatdar being called the 'Sarkar.' I have been puzzled a great deal by the translation of the word 'Sarkar' by the word 'Government.' 'Sarkar' does not mean 'Government,' it is an elastic word, as there is no other word in Marathi to express the idea of 'Sarkar,' that is the 'Bureaucracy.' 'Sarkar' here means the 'Bureaucracy.' The audience could never understand by 'Sarkar' anything like the 'Government.' The word is taken from Sanskrit. Even the witness himself has admitted that the word 'Sarkar' is used for the 'Administration.'

Batchelor J.: I do not question it for a moment.

Mr. Jinnah: Therefore, may I ask the Court to judge what the meaning of this passage is by reading the whole speech? Read the whole of this page. The word 'Sarkar' there is translated as 'Government,' but it does not mean 'Government established by law in British India,' it undoubtedly means 'Administration.' It means nothing else. There is no other meaning. That is all that I have to submit to your Lordships on that point. Further he says 'We want rule of the English, which is over us, but we do not want the intervening middlemen,' 'keepers of granaries,' as he

them. There, again, my Lords, is an attack on the Bureaucracy; it is the Civil Service that is attacked by the term 'Intervening middlemen.' Calling these Civil Servants 'intervening middlemen,' that is, 'the keepers of granaries,' he says further 'The grain belongs to the master, the provision belongs to the master.' Then he says 'Remove the intervening middlemen's aching belly and confer these powers upon people, so that they may duly look to their domestic affairs.' My lords, a great deal was made of the term 'aching belly' in the Lower Court. I don't know what they are going to say here. Here, my lords, the shorthand writers, who took this portion down, did not take down the original Marathi speech correctly.

**Mr. Jardine:** I am not going to rely on the question of 'aching belly.'

**Mr. Jinnah:** That is all right. This, again, my Lords, is an attack on the Bureaucracy; it is the Civil Service that is attacked. I do urge this on your lordships, my lords, that when you find that the word 'Sarkar' is translated by the Translator as 'Government,' it really does not mean the 'Government' in the sense in which it is contemplated by section 124A. Your Lordships may understand that by the word 'Sarkar' it is really the Civil Service for the Bureaucracy that is intended by the speaker. Then, your lordships will find among these speeches, again, a very strong sentiment of loyalty expressed, which is not compatible with the man's intention to cause sedition or disaffection. Your Lordships will see that what Mr. Tilak complains is that the present Bureaucracy consider things from their own point of view—very differently from what would be the case, if the 'authority were to be given into our hands. My Lords, Mr. Tilak makes his position very clear as to his object. There are these speeches. I submit, my lords, that any intelligent man, who heard these speeches, would certainly not be disaffected towards the Government established by law in British India, within the meaning of Section 124A. Then we come to the third speech.

(At this stage the Court adjourned for lunch.)

When the Court re-assembled after lunch, the Hon'ble Mr. Jinnah resumed his address as follows :—

My Lords, I don't know whether I have made myself quite clear with regard to your Lordships' point about 'The Government is alien.' The first thing, my lords, that I want to speak to your lordships is this. Mr. Tilak tries his best in this very passage, to get rid of the prejudice, which may be there on account of race, colour or religion and so on. He says there may be any man—he may be a Christian or he may belong to different race, or he may be a white man ; that does not make him an alien. He tries to imply this, that so long as those who are in charge of the administration have their interests in conflict with ours in some matters, no doubt, to that extent they are aliens. Therefore, I say, that Mr. Tilak, when he said that 'The Government is alien,' had no intention really to cause disaffection. There is no reason to suppose on the account, that he wanted to cause disaffection or to excite contempt or hatred for the British Government. Supposing he wanted to do that, he could have easily said 'look at these people, they do not belong to our race, at all ; they are aliens ; they are Christians ; and so on and so forth. My Lords, the impression that he created upon the minds of the audience was that it does not make a man alien because he is of a different religion or a different caste or a different race, and so on. He says his theory of an alien is that he is an alien, connected with the administration of this country, whose interests conflict with the interests of the country. And, then, my Lord, he gives an illustration and takes, for instance, the case of "Swadeshi" industries being taxed. He takes the case of Excise Duty, and so on. Therefore, when he says 'their interests conflict with ours,' he admits that in that respect they are aliens. But, my Lords, my complete answer to your question is this that the word 'Government,' in the sentence 'Government is alien' ; is used by the translator for the original Marathi word 'Sarkar,' which does not mean, if you read the context of this speech, 'the Government by law established.'

India.' On the contrary, it is absolutely clear—if you read the whole speech, it is quite clear that 'Government' there means nothing but administration of the Bureaucrats, who are managing the Government, and he is really attacking the Bureaucracy—a certain set of officers, who are managing the administration. 'Government' there, my Lords, means nothing more than Bureaucracy. Then, my Lords, coming to the third speech, your Lordships will find, again, that Mr. Tilak makes his intention quite clear—he never intended to cause disaffection. Take the third speech, where he says by "Swaraj" it is not meant that the English should be driven away.'

And (if the matter) be considered from such a standpoint, then there is no other way (to accomplish this) than (the acquisition of) "Swaraja", than 'the possession of authority.' If you look at the passage, your Lordships will see that Mr. Tilak says 'If the Native Collectors remain and, in the end, the English Collectors come, we want them. There is no objection to say "Remove such and such a man (and) make such and such an arrangement in such and such a place."' My Lords, there was a great deal of discussion about the word 'Beasts' in the passage which I have read, namely, 'The chief question is whether a certain nation is to be treated like beasts.' Our suggestion is not that they are treated like cattle, but all that Mr. Tilak really wishes to say is 'Why should our people not have the same liberty, and why should they not have the ordinary desires and sentiments like other nations, and why should they not make progress?' My Lords, it is a common expression; it means this; it means nothing else. Then, my Lords, Mr. Tilak gives the story of a parrot, and that was objected to. I really don't know, my Lords, what is wrong about that story. Mr. Tilak says 'The Collector of Nagar looks to sanitation,..... This is not our original, natural, sentiment—the natural human sentiment. As that is not the parrot's natural sentiment, just so this is not the natural sentiment of our nation.'

Mr. Jardine: I don't complain of the parrot's story, my Lords.

Mr. Jinnah: Then I shall leave the story alone. ....

..... There is no question which is not dependent upon "Swarajya." There is nothing else, my Lords, that I can think of in this speech, unless your Lordships will desire me to explain something. There is nothing else that had been objected to in the Lower Court. I don't know what objections will be made here. Now, my Lords, I say that taking these speeches as a whole, they are criticisms of the system—of only a part of the whole administration. What has really happened is that Mr. Tilak has told his audience that the Home Rule League organisation is a good movement, that they should become members of the League, and that they should bring about a change in the system of administration; and how that has to be done Mr. Tilak makes quite clear. He says that that has to be done by placing the matter before the British public and the British Parliament and by getting this statute amended in Parliament. Now, if your Lordships will look to the judgment of the learned Magistrate, your Lordships will find that this is his finding at page 90; 'Looking at these speeches, as a whole, fairly, freely, and without giving undue weight to isolated passages, what impression do they convey to us, and what impression must we believe they conveyed to the audience to which they were addressed? The impression I gather from them is that Mr. Tilak wishes to disaffect his audience towards the Government, in order that they may "Wake up" (to adopt Mr. Jinnah's words), to their present unhappy condition, join his Home Rule League, and help him in his agitation for a change in the administration of the country. He is addressing an ignorant audience—counsel for the defence insisted upon this point.' My Lords, I don't know why the learned Magistrate says the audience was ignorant. May be that the audience was not highly intelligent, but to say that the audience was ignorant, there is no justification for it. However, the judgment proceeds: 'And he (Mr. Tilak) knows that he cannot interest them in his argument unless he can illustrate it forcibly; so, he tells them that they are slaves; that their grievances remain unredressed, that the Government

.....There is no question which is not dependent upon "Swarajya." There is nothing else, my Lords, that I can think of in this speech, unless your Lordships will desire me to explain something. There is nothing else that had been objected to in the Lower Court. I don't know what objections will be made here. Now, my Lords, I say that taking these speeches as a whole, they are criticisms of the system—of only a part of the whole administration. What has really happened is that Mr. Tilak has told his audience that the Home Rule League organisation is a good movement, that they should become members of the League, and that they should bring about a change in the system of administration; and how that has to be done Mr. Tilak makes quite clear. He says that that has to be done by placing the matter before the British public and the British Parliament and by getting this statute amended in Parliament. Now, if your Lordships will look to the judgment of the learned Magistrate, your Lordships will find that this is his finding at page 90; 'Looking at these speeches, as a whole, fairly, freely, and without giving undue weight to isolated passages, what impression do they convey to us, and what impression must we believe they conveyed to the audience to which they were addressed? The impression I gather from them is that Mr. Tilak wishes to disaffect his audience towards the Government, in order that they may "Wake up" (to adopt Mr. Jinnah's words), to their present unhappy condition, join his Home Rule League, and help him in his agitation for a change in the administration of the country. He is addressing an ignorant audience—counsel for the defence insisted upon this point.' My Lords, I don't know why the learned Magistrate says the audience was ignorant. May be that the audience was not highly intelligent, but to say that the audience was ignorant, there is no justification for it. However, the judgment proceeds: 'And he (Mr. Tilak) knows that he cannot interest them in his argument unless he can illustrate it forcibly; so, he tells them that they are slaves, that their grievances remain unredressed, that the Government

only considers its own interests, which are alien to theirs, and intends to keep them in slavery on the untrue excuse that they are not fit to rule themselves.'

**Batchelor J.:** Was the audience of Maratha agriculturists?

**Mr. Jinnah:** We have got evidence, my lords, that they were of all classes of people—merchants and various classes of people. Your lordships will not, please understand me to say that I want to convey that the audience was intellectual. I do not say that. But, I think, it is quite wrong to say that they were ignorant. Mr. Tilak knew that he was addressing an audience with reference to a political question; so he knew that the audience could follow him; otherwise, he would have wasted his breath. (Laughter.) Very well. Then the Magistrate further says this in his judgment:—'Mr. Jinnah's contention, that it is not the Government that Mr. Tilak is attacking, but only the Civil Service, will be discarded at once, by anyone who reads the speeches through. The speaker refers frequently to the Bureaucracy—using the English word—but the context and trend of his argument throughout shows that he is referring to the whole system of Government and the whole body of officials in India—from the Governor-General down to the police sepoy.' Now, my lords, it is for your lordships to decide whether you are not satisfied that the real attack was on the Civil Service and that Mr. Tilak is simply seeking to have a change in the system of administration in the country. I say that all these three speeches clearly show that here is a criticism and an attack upon the system of administration of the Civil Service. That is all that I have to submit, my lords.

#### THE ADVOCATE-GENERAL'S REPLY.

The Hon. Mr. M. R. Jardine, the Advocate-General, replied as follows on behalf of the Crown:—

My Lords, with regard to the expression 'Government established by law in British India,' my submission is that

there is possibly a great deal of hairsplitting upon what the expression substantially means. There is no substantial doubt as to what it means. My learned friend, without citing any authority for his proposition, suggested that it means the Sovereignty, the Crown, the House of Parliament, and nothing more. In the absence of any authority for that very narrow construction of that phrase, I do not propose to deal further with it. But, I would point out to your lordships that it seems to me that the suggestion of my learned friend merely brings the Government of this country within a measurable distance of being helpless against the attacks by people in this country. The meaning of the term 'Government' is 'administration that is carried on by those persons who are authorised by law to do so.' If that was not correct, then, I say, the Government of the country would be impossible. I need not labour, my lords, in laying stress upon the result that would be derived if my learned friend's suggestion, as regards the meaning of the expression 'Government established by law in British India,' were accepted, because that expression has been dealt with in the judgment of Justice Stratchey in this Court. That judgment, or rather, the summing up in that case, was referred to the Full Bench in that particular case, and it was also laid before the Privy Council, and was there ably argued by persons of great eminence in the English Bar. It is hardly likely that those arguments would have escaped the notice of this Court.

**Shah J. :** Does not the Full Bench, in that case, think that the point of the meaning of the 'Government by law established in British India' was a very minor point in the case?

**Mr. Jardine :** Yes then, my learned friend suggests that the Indian Penal Code protects everybody except the Government, who are responsible for the administration of the country.

**Batchelor J. :** It is not here only the question of fact; here, you have the abstract thing 'Government'. If you wish to attack the Government, it would be through one of its

agencies, as, for instance, the Forest Department or the unfortunate Civil Service Department, to which I belong, or various other Departments. If you attack one of these agencies, you attack Government, and the purpose will be served. I think that is what it comes to.

Mr. Jardine : That is really what Mr. Justice Stratchey says, and the Privy Council has repeated as much. After Justice Stratchey's judgment, that expression, which occurred in the original section remains, but the section itself is amended. That must be regarded as a substantially correct law. Then, my lords, with regard to the effect of the speeches in this case,

Shah J. : Do you say that all members of a particular Service would be members of Government within the meaning of the section, or that the 'Government by law established in British India' would simply mean 'Government,' as defined in the Government of India Act, and that it may be possible to bring Government into contempt or hatred or disaffection in a variety of ways by attacking members of some Service by which the Government is carried on ? Can 'Government' include the Services within the meaning of the section ? Is that your view ? I want to know what your view is.

Mr. Jardine : It is quite sufficient for my purpose to say that 'Government' includes those persons who are vested with the Executive Government in any particular Presidency, and they are, of course, responsible for the way the administration is carried on, although the administration may be carried on by Junior officials. You cannot separate the administration from most of these employees.

Shah J. : Take, for instance, a concrete case. Suppose there is a criticism against the members of the Civil Service or the Forest Department ; would you say that is against Government by law established in British India ? Would you say the Government is criticised there ?

Mr. Jardine : I should certainly say, my lords, that because the Civil Service forms a very large part of the ad-

ministration, they are a substantial agency of the administration ; the administration consists largely of Civilians. What I submit, my lords, is this that the members of the Civil Service are persons who have power to carry on the work, and you cannot distinguish those persons from their juniors ; they are the accredited agents, and they have to be protected ; otherwise, it seems to me that Government can never be protected at all. I am now coming to the speeches, my lords. My submission, with regard to them, is this. They are an attack on everything except His Majesty and the House of Parliament. It is perfectly true that in various passages the King-Emperor is excluded from criticism. I don't know how it strikes the Court with regard to this exclusion of His Majesty; it seems to me that the exclusion is merely because he is treated as an invisible Government-as inoperative Government. However that may be, here Mr. Tilak is not charged with attacking the King. The whole of his charge is against the operative system of Government. The whole of his attack is against the operative system of Government, from which the King and the Parliament are excluded. It is quite obvious, if he had done anything else—if he had attacked the King or the Parliament, he would have been in a very different position. What Mr. Tilak is charged with is not for that which he has not done, but for what he has done. The King and Parliament are excluded from his criticism, but they are contrasted with the Government in this country. A great stress has been laid upon various passages in these speeches to show that Mr. Tilak does not seek separation. Here, again, he is not charged with the desire of separation, whether he has that desire or not ; though I would point out that his references to separation are marked in their expression by the fact that he is generally contrasting the Bureaucracy of England with the Bureaucracy of Germany. There seems to be not too much advantage to be derived from his remark : 'We don't want to apply to Germany or France.' My submission is that I think it a fair criticism of his speeches.

to say that he refers to the invisible Government in one place, and to the visible Government in another place, and directly he refers to the visible Government, he refers to it in a sense as if that Government has fallen under his ban.

The Advocate-General then referred to certain passages where Government was called alien and argued that Mr. Tilak distinguished Government from bureaucracy when it suited him.

Mr. Jardine : I submit, My Lords, my learned friend has not really grappled or had not attempted to grapple with the real charges that were made against his client. He has not read the Magistrate's judgment to your Lordships ; presumably, he has not read it himself. At page 78—rather towards the end—you have what the Magistrate says: Mr. Binning for the prosecution relies upon the whole of the speeches. He indicates certain passages on which he chiefly relies—they are marked red by the Court on Exhibits G. H. and I. He states plainly that he does not call into question the propriety of the discussion of Home Rule. His instructions are to express no views on that subject. What he asked the Court to condemn, on the ground that it is seditious within the meaning of section 124 A of the Indian Penal Code, are the remarks made by Mr. Tilak in various parts of the speeches, in which he imputes dishonest and corrupt motives to Government. On that part of the case, my lords, my learned friend has not seriously dwelt. The charges made by the speaker were that the Government was "alien" and hence hostile to the interests of the people. Mr. Tilak had also charged Government with holding out hopes without any intention of fulfilling them, and that the Government of this country was, as in the Company's time, purely a money-making business. There were frequent references to the slavish condition of people. My Lords, at page 25—in the middle of the page, your Lordships will find a number of measures are referred to, and then it is suggested that those measures are due to the fact that the 'Government is not in our own hands.' I don't object to the criticism, but I do object to the suggestion that the

Government of the country is carried on by a Bureaucracy who possessed all the powers of the Government.

Batchelor J. : The speaker complains of specific Government measures and says that they are due because the power is in the hands of a certain class instead of in the hands of the people of India.

Mr. Jardine : I dont object to that, but I say if you read the whole of the speech, you will find that it is suggested to the audience that the Government of India is responsible for certain measures and that it does not do what the people like. That is exactly what it comes to. Then look at page 28, where there is a passage referring to the Mamlatdar of ripe experience being lorded over by a young Civilian.

Batchelor J. : Is it not a fair criticism ?

Mr. Jardine. : It may be, my Lords ! but taking it with the rest of the speech, I submit, you will find that the speaker is trying to work upon the feelings of the audience, not so much against the system of administration, but in order to induce the people to join the Home Rule League because, the speaker said, they should think that 'this Government is unjust and deliberately trying to oppress the people.' My learned friend said that throughout these speeches you find credit being given to the Civil Service or the Bureaucracy. I dont wish to read the speeches in order to save time, my Lords, and I think this might be conceded that the Bureaucracy is given some credit, but, so far as I know, I can refer to no passage in which Mr. Tilak has given credit to the Bureaucracy for any desire for the welfare of the country..

Batchelor J. : Look at page 36, about ten lines from the bottom.

Mr. Jardine. : Certain good things are said of the Bureaucracy. My point is this that although Mr. Tilak admits, from time to time, that the Bureaucracy has done good to the country, he has never given them credit, so far as I can see, for disinterested motives for any desire to do good to the country, which they are governing.

Batchelor J. : I think that there are several passages where he does that.

Mr. Jardine : My point is this, I cannot say he does not concede that the Government if efficient.

Batchelor J. : Quite so.

Mr. Jardine : What I do wish to draw the Court's attention to is this. My point is about motive. I submit there is no passage in those speeches where a recognition is made that there may be a desire on the part of the Bureaucracy to do their best for this country except for the indirect advantage of the country from which they come. I should not have troubled your Lordships with these observations had not my learned friend drawn your Lordships' attention to the fact that Mr. Tilak was describing some good things about the Bureaucracy. He admits they are industrious and educated, but, throughout, he ascribes their good actions to interested motives.....Now, my lords, if your Lordships want me to argue that imputation of hostility or indifference to the people on the part of the Government would come within Sec. 124 A,

Batchelor J. : There is no doubt about the law. I don't know how the Magistrate came to mean 'disaffection' as absence of affection.

Mr. Binning : I was there and, as far as I remember, I read the whole of the section.

Batchelor J. : 'Disaffection' is not 'absence of affection.'

Mr. Binning : No, my lords.

Batchelor J. : This is a clear mistake of the Magistrate.

Mr. Jardine : I think so.

Batchelor J. : In 32 Bombay, page 134 you have this laid down : Disaffection is not absence of affection.

Mr. Jinnah : We have got the definition of 'disaffection' distinctly now, my lords.

Mr. Jardine : I submit my lords, that the language used in these speeches would raise a feeling of enmity, I cannot

imagine how it would strike your lordships. I say it would not produce any other result.

Batchelor J. : When a man is criticising, he is 'pro tanto' exciting a feeling, but he is entitled to criticise ?

Mr. Jardine : Undoubtedly.

Batchelor J. : Very well. If a man is entitled to criticise to that extent he is entitled to excite feelings of disapprobation—you admit that ?

Mr. Jardine : Undoubtedly. The question here is my lords, not whether the effect of these speeches is to raise in the minds of his hearers a feeling of disapprobation ; here the question is of raising a feeling of downright hostility towards Government.

Batchelor J. : Does he go so far as that ?

Mr. Jardine : I submit that is the result of these speeches, my lords. If you attribute wrong motives, you produce disapprobation. But if you attribute directly dishonest motives, then you are getting a totally different result ; the result would be to excite great deal more than disapprobation. Disapprobation of measures is one thing ; but when you begin to impute motives, when you suggest dishonest motives, then, I say, you are evidently getting into matters which would excite enmity ; not mere disapprobation.

Batchelor J. : Supposing you are delivering a speech and I happen to be present. Assume I am a typical Maratha. When that speech is over, what do you think would be the effect of that speech on my mind ? Is it not possible that it would have the effect of producing in my mind the feeling that the Government, in the opinion of any reasonable man, has not done for the Empire all that it should have done ?

Mr. J. ardine: My lords, here Mr. Tilak tells people that Government is taking too much tax. It is an attack on the system and not on the measure of the Government.

Shah J.: If there is a speech and not a written article, and if the speaker deals with his subject in a certain way, is he not entitled to a certain amount of indulgence so far as the actual effect of his

action is concerned, the speech being not like a written article?

**Mr. Jardine:** He is entitled to such indulgence, but he has got to keep within the limits of the law. There is no reason why he should not keep himself within the section, so far as the subject matter is the measures; otherwise, it seems to me—

**Shah J.:** There is no question about it; he must keep himself within the limits of the law; Supposing he transgresses the bounds of law, would there be no difference observed between his speech and a written matter?

**Batchelor J.:** Would there be no allowance made in his case?

**Mr. Jardine:** I don't know why he should be differently treated if he said for instance that certain things should be done in cold blood? In this case Mr. Tilak is telling his hearers that Government is deliberately deceiving people and deliberately doing things for their own country's advantage. There is nothing before your lordships to show that the speaker did not mean exactly what he said. My only submission is that feeling of disapprobation and feeling of enmity stand on totally different planes of criticism. When you impute motives of dishonesty, you raise in the minds of the hearers—I say a large number of them—I don't say everybody—a feeling of actual hostility towards Government. Now, my learned friends' argument was that it was necessary to show intention on the part of the speaker to create disaffection. My contention is that there was intention to create a feeling that would be likely to excite feeling of disaffection. My further submission is that, for the purpose of Section 108 the question of intention on the part of the speaker is entirely immaterial. In a criminal case there must be intention. My submission is that when you are dealing with section 108, it is not necessary that there should be intention at all.

**Shah J.:** Clause A of section 124A says that seditious matter is a matter which is punishable under section 124 A.

Mr. Jardine: There it is the matter that is punishable and not the person.

Batchelor J.: How is matter punishable? (Laughter.)

Mr. Jardine: It is not, my lords. That is the wording of the sections. The matter is described in section 124A.

Shah J.: What is the difference between Clauses A and B of section 124 A?

Batchelor J.: Intention is to be derived from actual words?

Mr. Jardine: My submission, my lords, is this that here the question is that there would likely be that effect; therefore the question of intention does not arise.

Batchelor J.: man's intent is to be gathered from the effect, the natural effect which his words may produce?

Mr. Jardine: Yes, and not from his language merely. Intention cannot be deduced from language; then it would be said it did not come within the section.

Batchelor J.: Just so.

Mr. Jardine: A man may say something in the heat of oratory; it is not a case in which he should be punished. Here, if Mr. Tilak was carried away by his own eloquence and said something which he did not mean, it would not be the case for punishment. It would obviously not be a case for putting in force a section of this sort; that case would fall under another section. (Reads 43 Calcutta, 544.) In this case it is distinctly laid down that when you are dealing with certain circumstances, you may find there may be no intention; yet, the matter of this sort should not be disputed.

Batchelor J.: Very well.

Mr. Jardine: Therefore, my lords, my submission is that the learned Magistrate's order is perfectly correct, and there is no provision in the law which entitles the appellant to a revision of this order.

The Hon. Mr. Jinnah, for Mr. Tilak, said as follows in reply to the Hon. Advocate-General:

I should like to point out to your lordships something which, perhaps, has escaped my learned friend, Mr. Jardine. Your lordships will find the passage at page 70. It is in the judgment of the Magistrate. [Reads the passage].

I submit, my lords, that Mr. Tilak is addressing an audience of 2,000 people and, naturally, when he is delivering the speech, there are cheers and confusion and laughter in the meeting. For this result one cannot say that Mr. Tilak has done something for which he is responsible. I simply say there is a great difference between the man standing to deliver a speech and the man who is deliberately sitting down to write an article. Then he is cool and collected. I submit, my lords, here is an attack on the Bureaucracy really, and I say it was not intended to cause disaffection against Government. The criticism may be very severe but it was within the section, and if you cannot convict a man under section 153 and if you cannot convict a man under section 124 A, then my lords, my submission is that you cannot call upon him to give security. You call him to give security provided he has committed an offence. It is open to Government to bind a man over if in a particular case they don't think it worth while to prosecute him and obtain his conviction. But in order to deal with a man under section 108, the Court must be satisfied that an offence has been committed. Take the case of a lunatic, my lords. Suppose he goes and makes a speech as a lunatic and he does use language which clearly falls under section 124 A. Then, he being a lunatic, he has not committed the offence. In this case, my lords, I have said I have picked 47 passages from these three speeches. They show that to an ordinary mind they do not convey the idea of causing disaffection. These 47 passages rebut the presumption of the intention which my learned friend, Mr. Jardine, wishes to bring home to my client.

Batchelor J.: You rely on the forty-seven passages as showing the general purport of the speeches which would not produce that effect?

Mr. Jinnah : Yes. I would refer your lordships to what Lord Halisbury says on the question of intention. (Reads from Lord Halisbury's Laws of England. In the present case, my lord these forty-seven passages show the intention of the speaker, the intention which permeates these three speeches.

Batchelor J.: We shall deliver judgment tomorrow morning  
(Adjourned till Thursday, 9-11-16, 11-30 a. m.)

#### JUSTICE BATCHELOR'S JUDGMENT.

The Hon. Justice Sir Stanley L. Batchelor in delivering his judgment said:—

This is an application by Mr. B. G. Tilak praying this Court to revise the Order made by the District Magistrate of Poona under Sec. 108 and the following sections of the C.P.C.

The Order complained of directs that applicant do enter into a bond in a sum of Rs. 20,000 with two sureties each in a sum of Rs. 10,000 to be of good behaviour for a period of one year. The ground of the Order was that in the learned District Magistrate's opinion the applicant disseminated seditious matter in the three speeches which are now upon the record.

These speeches were admittedly made by Mr. Tilak. They were made in the Marathi language, but their translations before us are, it is admitted, substantially correct, and in my view nothing turns upon certain small niceties of expression in which, the defence suggest that the official translation contains slightly harsher words than the Marathi warrants. Thus the only question, is whether in the three speeches the applicant is proved to have excited or to have attempted to excite disaffection towards the Government established by law in British India within the meaning of Section 124 A of the Indian Penal Code. In my opinion the application does not give rise to any real question of law. But I must notice a mistake in law into which the learned Magistrate has inadvertently fallen.

Following Mr. Justice Strachey's original pronouncement to the Jury in *Queen Empress vs. Bal Gangadhar Tilak* (I.C.R. 22 Bombay, p. 112), he has held that "disaffection"

is the equivalent merely of "absence of affection." I cannot say whether this expression did or did not influence the learned Magistrate's decision, but it is plain that it may have done so. It is, I think, equally plain that this construction of the word "disaffection" is opposed to all ordinary English usage in words compounded with the particle "dis." Dislike for instance, is not a mere absence of liking, nor is disgust for a thing a mere absence of taste for it. This, indeed, was recognised by the Full Bench which amended Mr. Justice Strachey's definition. See the Report I. L. R. 22 Bombay at p. 151. The present explanation, No. 1, appended to section 124 A, now sets the point at rest. With these definitions before us I say that there is not, in my opinion, any real doubt about the law governing the case. Next, there were on behalf of the defence two preliminary arguments on which a word must be said. It will only be a word, because in my judgment the points taken are wholly devoid of substance or merit.

First, then it was said that there could be no excitement or disaffection in these speeches, inasmuch as the speaker openly and sincerely professed his loyalty to his Majesty the King-Emperor and the British Parliament. To that I have only to say that as I read section 124 A, it is clear that to a charge of exciting disaffection towards the Government established by law in British India, a profession, however sincere, of loyalty to His Majesty and the British Parliament, is no answer whatever.

Secondly, it was contended that the speeches could not in law offend against section 124 A, because the speaker's attack was made not on the Government *no ination* but on the Civil Service only. That, I think, is not quite so in fact. But assuming it to be so, it affords no answer to the charge, for the Government established by law acts through a human agency, and, admittedly the Civil Service is its principal agency for the administration of the country. Therefore, where, as here, you criticise the Civil Service *en bloc*, the question whether you excite disaffection against Government or not seems

to me a pure question of fact. You do so if the natural effect of your words, infusing hatred of the Civil Service, is also to infuse hatred or contempt of the established Government whose accredited agent the Civil Service is. You avoid doing so if preferring appropriate language of moderation, you use words which do not naturally excite such hatred of Government. It is, I think, a mere question of fact.

Passing now to the speeches themselves, they must be read as a whole. A fair construction must be put upon them, straining nothing either for the Crown or for the applicant, and paying more attention to the whole general effect than to any isolated words or passages. The question is, whether upon such fair construction these speeches offend under section 124A or not.

Now, first, as to the general aim of the speaker, it is, I think, reasonably clear that in contending for what he describes as "Swarajya," his object is to obtain for Indians an increased and a gradually increasing share of political authority and to subject the administration of the country to the control of the people or the peoples of India. I am of opinion that the advocacy of such an object is not *per se* an infringement of the law, nor has the learned Advocate-General contended otherwise.

I wish to be understood as confining these last observations to the case which we have before us and to the object which as I have explained, these speeches seem to me to pursue. I desire to guard myself from being supposed to say that the advocacy of "Swarajya" is in all cases permissible. That is, point upon which it is not necessary now to pronounce at all. For, as I understand it, the word "Swarajya," may have a dozen different meanings in the mouths of as many speakers. The remarks, which I have made are applicable only to the object aimed at in these speeches, as I have already defined that object.

We must now turn to the actual language employed by the applicant, noting especially the methods which the speak-

advocates for ensuring the political changes which he seeks. First it is a matter for observation that he formally and expressly repudiates all intention of sedition. That of course is by no means conclusive. But it is a fact to be considered along with other facts. For I am bound to say that a candid reading of the whole speeches does not convince me that the repudiation of disloyalty is feigned or artificial. Now the intention to create disaffection must, of course, be proved, and following the usual rule that a man must be taken to intend the natural and probable consequences of his own acts, we must seek for the speaker's intention in the language which he has used.

In the course of the argument comments were made, and properly made, on the form of many expressions to be found in the addresses, this form being in many cases offensive or insulting in the personal sense. These matters, however, though they may convict the speaker of bad taste, or bad temper, do not seem to me to go very far towards convicting him of a violation of the criminal law. Now, it not being contended that the main object of the speaker's advocacy is in itself forbidden we must see whether there is anything in the language used or the methods urged which fairly brings the applicant within the penal section. The answer must of course depend on the effect likely to be produced by the speeches on the minds of the hearers. Would that effect naturally and probably be to excite disaffection as defined in the section or to excite only such measure of disapprobation as is not forbidden by the law? The arguments which we have heard to assist us in answering this question are no doubt helpful. But it must be borne in mind that all such arguments necessarily concentrate upon certain selected passages, whereas the Court's aim is to decide upon the general effect of the speeches as a whole. Probably, the fairest way to ascertain that effect is to read the three speeches from beginning to end quietly and attentively, remembering the arguments, and remembering the politically ignorant audience whom Mr. Tilak was addressing. I have

so read these speeches not once, but several times, and the impression left on my mind is that on the whole, despite certain passages which are rightly objected to by the prosecution, the general effect would not naturally and probably be to cause disaffection, that is, hostility or enmity or contempt, but rather to create a feeling of disapprobation of the Government, for that it delays the transference of political power to the hands of those whom the speaker designates as "the people." For this conclusion I can only appeal to the general purport of all the three speeches as a whole. They cover 34 pages of print and of course I cannot set them out *in extenso* in this judgment. I must, therefore, perforce refer to particular passages of particular consequence. But I wish it to be understood that my decision is based not on particular passages, but upon the general effect.

I proceed now to cite a few passages in order to show what in the speaker's own language is the meaning of that *Swarajya* which he was advocating to his audience. He tells them :

"But however good may be the arrangement made by other people, still it is not the case that he who wants to have the power to make this arrangement always approves of it. This is the principle of "Swarajya." If you got the powers to select your Collector, it cannot be said with certainty that he would do any more work than the present Collector. Perhaps he may not do. He may even do it badly. I admit this . . . To put it briefly, the demand that the management of our affairs should be in our hands is the demand for "Swarajya." . . . If you carry on such an effort now for 5 or 25 years, you will never fail to obtain its fruit."

This passage is important as showing that the speaker does not expect that the political change which he advocates is to come suddenly or by a stroke of the pen. In other passages he uses the following language:—

"Confer those powers upon the people, so that, they may duly look to their domestic affairs. We ask for "Swarajya" of this kind. This "Swarajya" does not mean that the English Government should be removed, the Emperor's rule should be

removed and the rule of some one of our Native States should be established in its place . . . But we must do those things which relate to business, trade, religion and society. Unless the power of doing those things comes partially into our hands in the end, it must come fully,—unless it comes fully into our hands, it is impossible for us to see a time of plenty, the dawn of good fortune, advantage or prosperity. Water cannot be drunk with others' mouths. We ourselves have to drink it . . . The first duty is, take a portion of this authority into your possession, it does not matter if you take a little portion of it . . . A new king is not wanted. But give into our possession a portion of the powers by losing which our condition is being reduced to that of orphans."

The above passages show the nature of the demand made. With this demand as a political theme I have of course no concern whatever, and I decline to say a word upon the subject. My concern is to say only that as a Judge I find nothing in it that offends against the law.

Passing now to an enquiry as to the methods advocated for securing the result proposed, I set out the following excerpts as indicating the speaker's general views:—  
 "It is an undisputed fact that we should secure our own good under the rule of the English people themselves, under the supervision of the English nation, with the help of the English nation, through their sympathy, through their anxious care, and through those high sentiments which they possess . . . In this manner, good management is to be asked for in this administration. Amendment is to be brought about in the present law; it is to be brought about through Parliament. We will not ask for it from others. We have not to get this demand complied with by petitioning France. The Allies may be there, we have not to petition them. The petition is to be made to the English people, to the English Parliament . . . Owing to the war which is now going on in Europe, it has begun to be thought that unless all

the many parts of the British Empire unite together, that Empire would not attain as much strength as it should. It has so happened now that a consciousness has been awakened in them that they stand in need of aid from other countries called Colonies, belonging to them—Australia, Canada and New Zealand,—which are inhabited by Sahibs. If you take advantage of this awakened consciousness, you too have this opportunity of acquiring some rights. No one tells you to obtain these rights by the use of the sword. But to-day the nation's mind has undergone a change. India can give some help to England. If India be happy England too will acquire a sort of glory, a sort of strength and a sort of greatness. This consciousness has been awakened in England... On the day on which you will be ready to do this—particularly in these days after the war is over—the administration shall have to be changed in some respects at least... I don't say to any of you that you should do unlawful things in order to acquire these rights. There is a lawful way."

In all these passages which I have cited as fairly typical of the speeches as fairly exemplifying the speaker's general drift, not only is there nothing illegal, but there is a distinct pleading that the political changes advocated should be obtained by lawful and constitutional means.

I need not lengthen this judgment by reference to the large mass of arguments used. It is enough to say that in my opinion the bulk of these arguments are free from legal objection and I notice as among such arguments that the contentions that Indian Administrators govern Native States without complaint; that in British India British officials are paid too highly, and Indians, though they are free to discuss have no effective control over finance or policy; that the present officials being in fact alien by race, though able and industrious men, do not readily understand the needs of the people. Now all this may be politically wise or politically foolish. With that I say, again I have no concern. But it is in my judgment, fair political criticism not obnoxious to section 124A. Yet it is arguments such as these which form the

bulk of these three addresses, and the applicant is entitled to be judged rather by his general tenor and purport than by any selected passages. It must also, in fairness to the applicant, be stated that these speeches are not all mere condemnation. In one passage of the speech of the 31st May 1916, he says, speaking of the Government and of the material improvements which the Government has made in the country, "I do not say that these things have not been done, done well and have been done better by the British Government than they would have been done by the former Governments; this is an honour to them. But should we not tell it to do those things which it does not do."

If matters rested here, the applicant's defence would, in my opinion, be very strong. Unfortunatey matters do not rest here, and there are two or three passages which, undoubtedly, as they stand, are to my mind impossible of justification. Nor has Mr. Tilak's learned counsel made any substantial or successful attempt to justify them. If these passages stood alone or if I could bring myself to think that they fairly reflected the speaker's general meaning, I should feel bound to confirm the Magistrate's Order. I don't intend to give those offensive passages a further publicity by repeating them in this judgment. I shall sufficiently identify them by saying that one passage occurring in the first speech, refers to keeping Indians in a position of slavery or servitude, and another passage in the second speech describes the Government as an "alien Government looking mainly to its own interests." In my mind the only real difficulty in this case has been to decide whether these passages alone can properly be used as affording a sufficient ground for the learned Magistrate's Order. Upon the best consideration that I can give to this difficult question, and having regard to the whole tenor of the speeches, I think that the answer should be in the applicant's favour. I think so, not because these passages in themselves can be justified, but because their obvious objectionableness is somewhat mitigat-

ed by the contexts of the arguments in which they occur, and because I don't regard them as fairly characterising the general effect of the speeches as a whole. There is no reason to think that, in these long speeches delivered orally, these particular passages, which occupy no specially prominent place in the addresses, would specially impress themselves on the minds of the audience so as to override the general effect. That general effect is not, I think, shown to exceed the limits of fair criticism as defined in Explanations 2 and 3 of section 124 A. On these grounds, I am of opinion, that the rule should be made absolute, the order under revision being set aside. The bonds, if they are executed, must be cancelled and discharged.

### JUSTICE SHAH'S JUDGMENT.

Justice Shah in delivering a concurring judgment said:—

This is an application for revising an order made by the District Magistrate of Poona. The order is made in proceedings taken under section 108 Criminal Procedure Code against the petitioner, and directs him to enter into a bond in a sum of Rs. 20,000, with two sureties, each in a sum of Rs. 10,000, to be of good behaviour for a period of one year.

The information under section 108 Criminal Procedure Code, against the petitioner was that he had orally disseminated seditious matter, that is, matter the publication of which was punishable under section 124 A of the Indian Penal Code, by making three speeches on the subject of "Swarajya" or Home Rule, one at Belgaum on the 1st May, and the other two at Ahmednagar, on the 31st May and 1st June last.

The learned District Magistrate has come to the conclusion that these speeches contain matter the publication of which is punishable under section 124 A, I. P. C., and the order in question is based on this conclusion.

The principal question to be decided on this application is whether the matter complained of is such that its publication is punishable under section 124 A, I. P. C.

At the outset it may be mentioned that no objection is taken to the main theme of the lecture viz. "Swarajya" or Home Rule for India on behalf of the Crown, nor is it suggested that the word "Swarajya" is used in any offensive sense in those speeches. The learned Advocate-General has contended before us, as it was contended before the Lower Court, that the matter disseminated by the petitioner is seditious on account of the remarks made in various parts of his speeches imputing dishonest and corrupt motives to Government by law established in British India.

It has been argued that the Lower Court is wrong in holding that "disaffection" within the meaning of section 124A means "absence of affection." The learned District Magistrate purports to quote the words of Mr. Justice Strachey. But it seems to me that in view of the observations of the Full Bench consisting of Farran C. J., Candy and Strachey J. J. in the case of Queen Empress vs. Bal Gangadhar Tilak, (I. L. R. 22 Bom. at p. 151) and of the judgments in Queen Empress vs. Ramchandra Narayan and another (I. L. R. 22 Bom. 152) it is clear that "disaffection" does not mean "absence of affection..". The section as it stood when these cases were decided was repealed in 1898, and the present section 124A was substituted for it. The first explanation to the section seems to indicate that "disaffection" cannot mean "absence of affection" within the meaning of the section. I agree on this point with the observations of Mr. Justice Batty in the case of Emperor vs. Bhaskar (8 Bom. L. R. p. 437). The learned Advocate-General does not contend otherwise; and the point is not of any practical importance in the case.

There has been some argument as to the meaning of the expression "Government established by law in British India" and the observations of Mr. Justice Strachey in Tilak's case and Mr. Justice Batty in Bhasker's case on this point have been referred to.

For the purposes of this case, it seems to me to be sufficient to state that the expression would mean the various

Governments constituted by the statutes relating to the Government of India now consolidated into the Government of India Act of 1915 (V and VI George V Ch. 61), and would denote the person or persons authorised by law to administer executive Government in any part of British India. The Hon. Mr. Jinnah has argued that all the criticism directed against the Indian Civil Service, generally described as "bureaucracy" in the speeches, cannot, under any circumstances, be treated as criticism against the "Government by law established in British India." I am unable to accept this argument. It may be that the various services under the control of the Government by law established in British India do not form part of the Government within the meaning of the section; and it may be that the criticism directed against any of the services is not necessarily criticism of the "Government by law established in British India." But the feelings which it is the object of section 124A to prohibit, may be excited towards the Government in a variety of ways; and it seems to me that it is possible to excite such feelings towards the Government by an unfair condemnation of any of its services. Whether in a particular case the condemnation of any service is sufficient to excite any feelings of hatred or contempt or disaffection towards the "Government by law established in British India," must depend upon the nature of the criticism, the position of the service in the administration and all the other circumstances of that case. It would be a question of fact to be determined in each case with reference to its circumstances. But as a matter of law it cannot be said that the condemnation of a particular service under the "Government by law established in British India," can never be sufficient to excite any of the feelings prohibited by section 124A towards such Government.

I now come to the question as to whether the publication of the matter contained in these speeches is punishable under section 124A. It is quite clear that the speaker must not bring or attempt to bring into hatred or contempt, or excite

attempt to excite disaffection towards His Majesty or the "Government established by law in British India;" and it is also clear that even in the case of comments falling under Explanation 2 or 3 of the Section, this essential condition must be observed. In the present case Mr. Jinnah has laid great emphasis on the fact that throughout the speeches the speaker has expressed his loyalty to His Majesty. But this cannot avail him. He is not charged with exciting disaffection towards His Majesty. The Crown case is that he has attempted to bring into hatred or contempt or to excite disaffection towards the Government established by law in British India; and it is no answer to this charge to say that he has expressed his loyalty to His Majesty.

The speeches in question were delivered in Marathi and are very long. It is necessary to determine the intention of the speaker in delivering these speeches. The intention must be gathered primarily from the language used; and if on reading the speeches, the reasonable and natural and probable effect of the speeches on the minds of those to whom they were addressed, appears to be that feelings of hatred, contempt or disaffection would be excited towards the Government, the petitioner's case must fail.

The question, therefore, is one of determining reasonable, natural and probable effect of the speeches taken as a whole on the minds of those to whom they were addressed. I have read these speeches for myself. They have been fully discussed on both sides, and various passages have been referred to. I do not consider it necessary to deal with these passages in detail. The speeches must be read as a whole "in a fair, free and liberal spirit." In dealing with them one "should not pause upon an objectionable sentence here or a strong word there." They should be dealt with "in a spirit of freedom" and not viewed "with an eye of narrow criticism." The case should be viewed "in a free, bold, manly and generous spirit" towards the petitioner (see R.V.Burns 16 Cox at p. 362.) In the present case it is clear from the various passages in the speeches that

the avowed object of the petitioner was to create a public opinion in favour of Home Rule for India, and to induce the hearers to join the Home Rule League. It is also clear from the speeches that he did not advocate for the achievement of his object any means other than strictly constitutional means. Under these circumstances it is clear that in determining the general effect of the speeches care should be taken not to attach undue importance to the objectionable passages. Undoubtedly there are some objectionable passages in these speeches. Particularly the references to the condition of slavery and to the alien character of the rule are unfair and improper. It seems to me, however, that the petitioner is entitled to the benefit of the argument that the general effect of the speeches taken as a whole should be considered, as that would be the impression left on the minds of the hearers. It is possible that different minds might estimate this effect differently. Under the circumstances, I have done my best to consider the passages in the speeches in favour of the petitioner on the one hand and in favour of the Crown case on the other; and to estimate their effect. I am unable to say that the natural and probable effect of the speeches taken as a whole on the minds of those to whom they were addressed, would be to bring into hatred or contempt, or to excite disaffection, towards the "Government established by law in British India." I am not, therefore, prepared to hold that the matter disseminated by the petitioner is seditious within the meaning of section 108, Cl. (a) Criminal Procedure Code. I do not ignore the fact that there are some passages, which, if they stood by themselves, might justify the inference against the accused. But their effect in the course of long speeches orally delivered is a different matter.

The learned Advocate General has attempted to save the order by urging that even if the publication of the matter be not punishable under Section 124 A on account of the criminal intent of the petitioner not being established, the Court could still make an order under Section 108 Criminal Procedure Code and that this is a fit case for making the order contemplated by the section. He

has relied upon the case of *Sitalprasad vs. Emperor* (I. L. R. 43 Cal. 591). But it seems to me that it is essential under Section 108, Cl. (a) that the matter disseminated must be shown to be seditious. The words of the section are clear and must be given effect to. I do not think that this view renders Section 108 of the Criminal Procedure Code unnecessary. It seems to me that the section affords an additional remedy to the Crown which may be more appropriate in certain cases than an actual prosecution on a charge under Section 124 A. I am unable to follow Sitalprasad's case in view of the clear words of the section.

I, therefore, concur in the order proposed by my learned brother.

After the judgments were delivered Mr. Jinnah told their Lordships that Mr. Tilak had already executed the bonds ; so unless their Lordships directed their cancellation they would stand and therefore he asked the Court to order their cancellation.

The Court therefore ordered that the said bonds be cancelled.

---



# APPENDIX A.

## Mr. TILAK'S SPEECH

ON

### "HOME RULE"

AT BELGAUM.

[ English translation of the three Marathi speeches as submitted to the Court by Mr. Thakur, the translator.]

[ 1st May 1916. ]

Place: Tent of the 18th Provincial Conference.

Time: 6 to 7-30 p. m.

( Exhibit G. )

The above lecture was given immediately after the meeting held under the auspices of the Historical Research Society.

In the beginning the Hon. Mr. D. V. Belvi, said:—"My friend Mr. Bal Gangadhar Tilak is going to lecture on Home Rule. I propose that on this occasion, Shrimant Rajmanya Rajashri Dadasaheb Khaparde, the President of our Provincial Conference, should take the chair." After Mr. Masur had seconded this proposal, Dadasaheb Khaparde rose to speak amidst loud cheers. He said: "Consider it to be a good fortune of our people, that there should be a subject like *swarajya* and a lecturer like Mr. Tilak. That both these things should come together at our house and that the Home Rule League which was to be started this year should also be established to-day—this union of three<sup>2</sup> auspicious events has

\* (Lit. the union of three sacred rivers which is supposed to take place at Allahabad.)

taken place here. Hence, you will be pleased to hear with a calm mind what Mr. Tilak has to say, ponder over it, and digest it well, so much so that you yourselves may become soldiers sympathising with *swarajya* and contending and caring for it. A man becomes one with the object about which he is thinking. The insect called bee has no progeny. But it captures and brings insects from outside, looks at them and draws their attention towards itself. In the end those insects become bees. I have stood up to say that we too should study this subject in the above manner. After this Lokamanya Tilak will speak on his subject at length."

Then Mr. Tilak rose to speak amidst loud cheers: He said :—

"When I was requested to give a lecture here to-day I did not know on what to lecture. I do not stand before you to-day after having made any preparation for any particular subject. I had come for the conference. Thinking that it would not be improper if I were to say a few words to you about those subjects which were discussed during the past two or four days and about the object with which a Home Rule League was established here before the Congress, I have selected that subject for to-day's lecture.

"What is *swarajya*? Many have a misconception about this. Some do not understand this thing. Some understanding it, misrepresent it. Some do not want it. Thus there are many kinds of them. Therefore I am not prepared to-day to make any particular discussion of any sort beyond saying a few general words on the following among other points: What is *swarajya*? Why do we ask for it? Are we fit for it or not? In what manner must we make this demand for *swarajya* of those of whom we have to make it? In what direction and on what lines are we to carry on the work which we have to carry on? It is not the case that these general words which I am going to say are the outcome of my effort and exertion alone. The idea of *swarajya* is an old one. Of course when *swarajya* is spoken of (it shows that) there is some kind

of rule opposed to *swa*, i. e. our, and (that) this idea originates at that time This is plain. When such a condition arrives it begins to be thought that there should be *swarajya*, and men make exertions for that purpose. You are at present in that sort of condition. Those who are ruling over you do not belong to your religion, race or even country. The question whether this rule of the English Government is good or bad is different. The question of about 'one's own' and 'alien' is different. Do not make a confusion of the two at the outset. When the question 'alien, or one's own ?' comes, we must say 'alien.' When the question 'good or bad' comes, say 'good' or say 'bad.' If (you) say 'bad,' then what improvement must be made in it?—this question is different. If (you) say 'good' it must be seen what good things are under it which were not under the former rule. These are different points of view. Hence, the reason why the demand for *swarajya* first arose is that..... \*Formerly there were many kingdoms in our India—in some places there was Mohammadan (rule), in some places there was Rajput (rule), in some places there was Hindu (rule) and in some places there was Maratha (rule)—were these *swarajyas* good or bad? I again remind you that this is a different question. We shall consider it afterwards. All those being broken up, the universal sovereignty of the English Government has been established in India. To-day we have not to consider the history of their down-fall. We have also not to consider how they fell. Nor am I going to speak about it. But the present system of administration is such that some able men who have been educated in England and have received college education come to India and the State administration of India is carried on through them. 'Emperor' is (merely) a name. When you give a visible form to the sentiment which arises in your mind at the mention of (the word) *raja* i. e. (king,) there is the present Emperor. This sentiment is invisible. When a visible form is given to this invisible.

(something,) there is the king—the Emperor. But the Emperor does not carry on the administration. The question of *swarajya* is not about the Emperor, not about this invisible sentiment. This must be remembered at the outset. Let there be any country, it must have a king, it must have some man to carry on its management and there must be exercised some sort of rule in it. The case of anarchical nations is different. These nations never rise. As in a house there must be some one to look to its management—when there is no man belonging to the house an outsider is brought in as a trustee—just so is the case also of a kingdom. In every country there is a certain body for carrying on its administration and there is some (sort of) arrangement. An analysis must be made of both these things, viz., of this arrangement and this body and, as stated yesterday by the President (the President of the Provincial Conference<sup>1</sup>) of the sentiment of 'king.' There must be a king, there must be State administration. Both these propositions are true from the historical point of view. Of a country where there is no order, where there is no king, that is, where there is no supervising body, the *Mahabharat* says: 'A wise man should not live even for a moment at that place. There is no knowing when, at that place our lives may be destroyed, when our wealth may be stolen, when our house may be dacoited, nay, set on fire.' There must be a government. I will not say at length what there was in the *Kritayug*<sup>2</sup> in ancient times. The people of that time did not require a king. Every one used to carry on dealings only after seeing in what mutual good lay. Our Puranas say that there was once a condition when there was no king. But if we consider whether such a state existed in historical times it will appear that such a condition did not exist in historical times. There must be some controller or other. That control cannot be exercised every time by all people assembling together at one place. Hence, sovereign authority is always divided into two parts:

<sup>1</sup> The brackets are in the original.

<sup>2</sup> The first of the four ages according to the Hindus.

one the advisory body, and the other the executive body. The question about *swarajya* which has now arisen in India is not about the said invisible sentiment. This question is not about those who are to rule over us, (and) according to whose leadership, by whose order and under whose guidance that rule is to be exercised. It is an undisputed fact that we should secure our own good under the rule of the English people themselves, under the supervision of the English nation, with the help of the English nation, through their sympathy, through their anxious care and through those high sentiments which they possess. And I have to say nothing about this (cheers). This is the first thing. Do not create confusion in your minds by confounding both the things. These two things are quite distinct. What we have to do we must do with the help of some one or other, since to-day we are in such a helpless condition. It is an undoubted fact that we must secure our good under their protection. Had it not been so, your independence would never have gone. Hence if we take for granted that we have to bring about the dawn of our good fortune with the help of the English Government and the British Empire, then the one more strange thing which some people see (lit. think) in this will altogether disappear. To speak in other words, there is no sedition in this. If then without<sup>1</sup> the help of the English Government—if the words ‘invisible English Government,’ be used for the words—‘English Government’ there would be no mistake—if with the help of this invisible English Government, with the aid of this invisible English Government, you are to bring about the dawn of your good fortune, then, what is it that you ask? This second question arises. The answer to it, again, lies in the very distinction of which I spoke to you. Though a Government may be invisible, still when it begins to become visible, the management of that kingdom is carried on by its hands and by its actions. This state of being visible is different from invisible Govern-

ment. If you ask how, (I say) in the same manner as the great *Brahma* is different from *Maya*. I have taken the word visible and invisible from *Vedanta* (philosophy). The great *Brahma* which is without attributes and form is different and the visible form which it assumes when it begins to come under the temptation of *maya*, is different. Hence these dealings which are due to *maya* are sure to change. What is the characteristic of *maya*? (It is) to change every moment. One Government will remain (viz.) invisible Government; and the visible Government changes every moment. The words *Swarajya* which has now arisen relates to visible Government. Maintaining the invisible Government as one, what change, if effected in the momentarily changing visible Government, would be beneficial to our nation? This is the question of *Swarajya*. And this being called<sup>1</sup> the question of *Swarajya*, there arises the question: 'In whose hands should be that sort of administration which is now carried on in our India? We do not wish to change the invisible Government—English Government. We say that (the administration) should not be in the hands of a visible entity by whose hands this invisible Government is getting works done, but should pass into some other's hands. The *Swarajya* agitation which is now carried on is carried on in the belief that this administration if carried on by some other hands (or) with the help of some one else, (or) by some other visible form would be (more) beneficial to the people than when carried on by those by whose hands it is carried on. If another instance is to be given, it can be said that there is an Emperor in England. An English Act contains the rule that king commits no wrong.<sup>2</sup> The king never commits a wrong (lit. offence). For his authority is limited in such a manner that (only) when a certain minister goes and tells something to him then he knows it. The Prime Minister does act on his own responsibility. There may be a good many (people) here who have studied English history. It is not the

<sup>1</sup> No clear original.

<sup>2</sup> These words are in English in the original.

case that this is not so. This is the chief principle in it. This principle having arisen in English history, (the number of) sedition cases began to fall. While here, these (people) begin to institute cases of sedition. Those who carry on the administration are different and the king is different. The king is one and the same. But the minister changes every five years. At that time no one says that it would be sedition if any one were to start any discussion advocating change of ministry. These are the things happening every day before the eyes of the English people. The king's circle (of ministers) went (out of office) after five years, went (out of office) after two years; they may quarrel among themselves as they like. What is that to the king? He is the great *Brahma* without attributes. He is not affected by this. The *Swarajya* agitation now existing in India is then about change in such a ministry. Who rules in India? Does the Emperor come and do it? He is to be taken in procession like a god on a great occasion, we are to manifest our loyalty towards him, this alone is their duty.<sup>1</sup> Through whom, then, is the administration carried on? It is carried on through those who are now servants (viz.) the State Secretary, Viceroy, Governor, below him the Collector, the Patil and lastly the police sepoy. If it be said that one Police sepoy should be transferred and another Police sepoy should be given, would that constitute sedition? If it be said that the Collector who has come is not wanted and that another is wanted, would that constitute sedition? If it be said that one Governor is not wanted, another Governor should be brought, would that constitute sedition? If it be said 'This State Secretary is not wanted, bring another' would that constitute sedition? Nobody has called this sedition. The same principle which is applicable to a Police sepoy is also applicable to the State Secretary. We are the subjects of the same king whose minister the State Secretary is and whose servant he is. This then being so, if any one were to say, 'The State Secretary is not wanted, this Viceroy is not

wanted, Fuller Saheb is not wanted in Bengal, such resolutions have often been passed in the case of Governors, not in the present but in the past times' and were to give reasons for that, you would say about him that his head must have been turned (and that) the reasons he gives are not good or sufficient. But from the historical point of view it does not follow that when he says so, that constitutes sedition (cheers). Our demand belongs to the second class. It is concerned with *svarajya*. Consider well what I say. If you think that the present administration is carried on well, then I have nothing to say. In the congresses and conferences that are now held you come and say : 'Our Kulkarni Vatan has been taken (away), zulum has been exercised upon us in connection with the Forest Department, liquor (drinking) has spread more in connection with the Abkari (Department), also we do not receive that sort of education which we ought to get.' What is the root of all this? What is the benefit of merely saying this? Why do you not get education? Why are shops of the Abkari Department opened where we do not want them? In the Forest Department, laws about reserved forests and about forest of this sort or of that sort are made. Why were they made? At present, lists upon lists about this come before the Congress. Why was your jury abolished against your will? Why was no college opened in the Karnatic up to this time? All these questions are of such a kind that there is but one answer to them. At present our thoughts run this way: is there no College?—make petition to the Collector or to the Governor, because they have power in their hands. If this power had come into your hands if you had been the officials in their places or if their authority had been responsible to the public opinion, these things would not have happened. No other answer than this can be given to the above. These (things) happen because there is no authority in your hands. The authority to decide these matters is not given to you for whose good this whole arrangement is to be made. Hence what we may have to ask becomes like (that asked by) a little

child. It cries when it is hungry. It cannot say that it is hungry. Then the mother has to find out whether it may be hungry or have a bellyache. Sometimes the remedies used prove to be out of place. Such has become our condition at present. In the first place you do not at all know what you want (and) where lies your difficulty. When you came to know it, you began to speak with your mouth. But you have no power in your hands to cause (things) to be done according to your words. Such being the condition, what has happened now? Whatever you have to do, whatever you want—if you want to dig a well in your house—make a petition to the Collector. If you want to kill a tiger in the forest make a petition to the Collector. Grass is not obtained, bundles (of wood) are not obtained, from the forest, permission to cut grass is required—petition the Collector. That is to say, all this has become like (the case of a) helpless man. We do not want this arrangement. We want some better arrangement than this. That is *Swarajya*, that is Home Rule. In the beginning these questions do not arise. As when a boy is young he knows nothing, when he grows up he begins to know these things, and then begins to think that it would be very good if the household management were made at least to some extent according to his opinion, just so it is with a nation. When (lit. as) it is able to consider this thing, when it acquires the capacity of considering (this thing) then this question is likely to arise. But now the condition here has become such that we had better give up the above thought, let us give up the thought about the invisible Government, let us come within the limits of the visible Government, (we then see that) the people who make this arrangement, who carry on this administration, are appointed in England according to a certain rule and law, and rules are made within the limits of those laws as to what should be their policy. These rules may be good or bad. They may be good, they may be quite well-arranged and methodical. I do not say that they are not. But however good may be the arrangement made by (other) people,

-still it is not the case that he who wants to have the power to make this arrangement always approve of this. This is the principle of *swarajya*. If you got the powers to select your Collector, it cannot be said with certainty that he would do any more work than the present Collector. Perhaps he may not do. He may even do it badly. I admit this. But the difference between these and those is this ; this one is selected by us, he is our man, he sees how (lit. in what direction) we may remain pleased ; while the other thinks thus : ' what we think to be good must appear so to others. What is there (with respect to which) we should listen to others ? I am so much educated, I get so much pay, I possess so much ability—why should I do anything which would be harmful to others ? The only answer is 'Because (you) have such conceit.' (Laughter.) There<sup>1</sup> is one way, there is no rule about it. He whose belly is pinched has no experience about it. This is the only cause of it, there is no other cause. Hence if you minutely consider the various complaints which have arisen in our country (it will appear that) the system which is subsisting now is not wanted by us. Not that we do not want the king, nor that we do not want the English Government, nor that we do not want the Emperor. We want a particular sort of change in the system according to which this administration is carried on, and I for one do not think that if that change were made there would arise any danger to the English rule (lit. kingdom). But there is reason (lit. room) to think that some people whose spectacles are different from ours may see it, because they say so (cheers). Hence the minds of many people are now directed to the question as to what change should be effected in the system according to which the rule of the English Government is exercised in the above manner. We make minor demands, viz., remove the (liquor) shop in a certain village named Ghodegoan ; they would say it should not be removed. Done. (If it is said to reduce the salt tax, they say, we look to the amount of revenue derived from salt duty. If this tax is reduced how should i

be managed there? But he who has to make the arrangement has to do these things. When I ask for the authority to manage my household affairs, I do not say, give me the income which you obtain, and do not spend (it). We ourselves have to make the expenditure, and we too have to collect money: this is the sort of double (lit. united) responsibility which we want. Then we shall see what we have to do. Such is the dispute at present. Other bureaucrats come and say, act according to our wishes; we say, act according to our wishes so that all (our) grievances will be removed. We know that sometimes a boy obstinately asks for a cap of 25 rupees from his father. Had he been in his father's place it is very doubtful whether he would have paid 25 rupees for the cap or not. The father refuses, but he (the boy) is grieved at the time. And why is he grieved at it? Because he does not understand (the thing): because the management is not in his hands. Hence the introduction of such an administration is beneficial to India. We want this thing to-day. When this one thing is got, the remaining things come into our possession of themselves. This is the one root of the thousands of things which we are asking for. When we get this key into our hands, we can open not only one but 5 or 10 doors at once. Such is the present question. It is in order that the attention of all may be directed to this question that this Home Rule League was established here the other day. Some will be grieved at it; I do not deny it. Every one is grieved. It was said here some time back that when a boy is minor, the father when dying appoints a *panch*. The *panch* when appointed supervises the whole of the estate. Some benefit is also derived from this (arrangement). This is not denied. Afterwards when this boy begins to become a little grown up, he sees that there is something wrong in this. I must acquire the right of management, then I shall carry on better management than this. He is confident of this. Not that he actually carries on the management in that manner. Perhaps, if he be a prodigal he may squander away his father's

money. But he thinks as above. In order to avoid any opposition between these two, the law lays down the limitation that (on the boy's) completing 21 years (of his age), the trustee should cease his supervision and give it into the boy's possession. This thing which belongs to practical life applies also to the nation. When the people in the nation become educated and begin to know how they should manage their affairs, it is quite natural for them that they themselves should manage the affairs which are managed for them by others. But the amusing thing in this history or politics is that the above law about 21 years has no existence in politics. Though we may perhaps somehow imagine a law enjoining that when you have educated a nation for a hundred years you should give its administration into its hands, it is not possible to enforce it. The people themselves must get this effected. They have a right (to do so). Hence there must be some such arrangement here. Formerly there was some such arrangement to a little extent. Such an arrangement does not exist now. And herein lies the root of all these our demands, the grievances which we have, the wants which we feel (and) the inconveniences which we notice in the administration. And the remedy which is proposed after making inquiries about that root in the above manner is called Home Rule. Its name is *swarajya*. To put it briefly, the demand that the management of our (affairs) should be in our hands is the demand for *swarajya*. Many people (lit. even many people) have at present objections to this. I merely gave the definition in order to make (the subject) clear. The people on the other side always misrepresent it. If there be no mistake in the logical reasoning of what I have now said, how will any mistake arise unless some part of it is misrepresented? Hence, those people who want to point out a mistake misrepresent some sentences out of this and find fault with it saying this is such a thing, this is such a thing. Hence, it is not the duty of a wise man to impute those things to us which we never demand at all to censure us and in a manner ridicule us before the people.

What more shall I say than this? (Cheers.) Hence, if any one of you has such a misconception, let him give it up. At least remember that what I tell is highly consistent. It is in accordance with logical science. It agrees with history. I said that king means invisible king or Government—this constitutes no offence whatever.<sup>1</sup> There are deities between. At several times God does not get angry; these deities get angry without reason. Some settlement is to be made with respect to them. Hence if there has arisen any such misconception it should be removed. I have told this for this purpose. Now I tell the nature of it to you. And even before that let us also consider a little the question whether we are fit for (carrying on) such sort of administration or not. Some time ago I gave you the instance of *panch* and their ward. There generally it happens that as the boy grows up more and more, those who think that the management should not pass into other hands make reports that his head has now begun to turn; another says that he is not mad, but that he appears to be half mad. The reason of this is that the management should remain in his hands for a couple of years more. A third says: 'True, you may give authority into his hands but do you know that he has got bad habits?' These (people) tell five or ten things about him. What is to be gained by doing this much? Then the dispute goes before the Court and then they get him adjudged mad. Some things like these have now begun to happen here. To give authority into people's hands is the best principle of administration. No one disputes this; because the same thing is going on in the country of those officials who are here. When they go there they have to advocate the same principle. Therefore no one says that this historical principle is bad. Then what is bad? They distinctly say that the Indians are not to-day fit for *Swarajya* (laughter), and some of us are like the rogues in the story of the three rogues occurring in the *Panchatantra*. That story is as follows: A villager had come taking a sheep on his head.

One rogue said to him 'There is a she-goat on your head.' The second said 'There is a dog on your head.' Third one said quite a third thing. He threw away the sheep. The rogues took it away. Our condition is like that. This relates to human nature. There are among us people who are just like them. Why are we not fit? Because fitness has not been created in us. We have not done (it), our parents have not done it. We too have not got such powers. But the Government has given you some powers in the Council. Sinha (and) Chaubal are in the Council. In the Executive Councils of other places also there are selected people. When these people were selected for appointment, did any one ever say (lit. write) "We are not fit, do not give us the post", No one said. (Cheers). What then is the use of saying (so) after coming to our meeting? I shall consider that these people are speaking the truth if, when the bureaucracy actually confers some great powers on them, they stand up and say "We do not want them we are not fit for them,—the Brahmins alone must come and perform Shraddha at our house we cannot perform it." I think that those men who say such things because such and such a person would not like (any particular thing) and bring forward such excuses for that purpose, in a manner make an exhibition of their weak nature (cheers). Why are we not fit? Have we no nose, no eyes, no ears, no intellect? Can we not write? Have we not read books? Can we not ride a horse? Why are we not fit? As a Jew in one of Shakespeare's dramas—asked I ask you what have we not? You have not done work. If it is not given at all, when are we to do it? (Cheers). Has it ever happened that we did not do work when it was given? No one did then say, we are unfit, do not appoint us. You appoint them. You get work done by them and afterwards it is also announced in a Government Resolution. 'He has done his duty and so on.'<sup>1</sup> On the contrary going further, it is to be asked, you bring from England quite a new man of 21 years. What can he do? Has he any experience at all? He

<sup>1</sup> These words occur in English in the original.

comes all at once and straightway becomes Assistant Collector, and becomes the superior of a Mamlatdar though the latter be 60 years old. Where<sup>i</sup> a Collector of 21 years? (cheers). Is 60 years' experience of no value? A man of 21 years comes and begins to teach you. Generally he makes this Mamlatdar of 60 years stand before him. He does not give (him) even a chair for sitting, and this poor man stands before him with joined hands because he has to get Rs. 150, 200, 400 (cheers). How then is the Saheb to acquire experience, how is he to become fit, and how is the work (lit. cart) to go on? Has any one thought about this? Had it been true that the people of India are not fit for *swarajya* and that they would not be able to keep their kingdom in good order, then Hindus and Muhammadans would never have governed kingdoms in this country in ancient times. Formerly there were our kingdoms in this country. There were administrators. The proof of this is that before the advent of the English Government in this country there was at least some order, their was no disorder everywhere. One man did not kill another. Since there existed such order, how are we to say that the people are not fit (for powers)? At the present time, science has made progress, knowledge has increased, (and) experience has accumulated in one place. Hence we must have more liberty than before, and we must have become fitter. (But) on the contrary (it is said) we are not fit. Whatever might have been the case in former times, this allegation is utterly false. Better say, (it) is not to be given (cheers). What I say is, don't apply the words 'not fit' (to us). At least we shall know that this is not really to be given. We shall get it. But why do we not get it? It is indirectly said that we are not fit. It is to teach you that we have come here. This is admitted. But how long will you teach us? (Laughter). For one generation, two generations, or three generations! Is there any end to this? ..... Set some limit. You came to teach us. When we appoint a teacher at home for a boy we ask him.

within how many days he would teach him—whether in 10, 20 or 25 years. Within two months, within four months.<sup>1</sup> But if the study which should take six months for the boy to finish would, be were to say, contrary to our expectation, take one year, we tell him you are useless, go, we shall appoint another teacher (cheers). Then in this manner, on the people—on all people.<sup>2</sup> These officers have control over the people's education and it is their duty to improve them: this duty remains on one side, they make attempts on the other side. They say that whatever attempts they make it is impossible for these people to become fit for this work.....(They are men like you, as wise as you. You take them in service, get work done by them; it is not that you exercise less strictness. What is going on in the *Khalsa* territory? There is no obstruction in the management. Is it obstructed in Mysore? Who are doing the work? The king of Mysore is a Hindu, the minister is a Hindu, the subjects are Hindus, the lower officers are Hindus. (They) carry on the administration of such a large kingdom as Mysore, but it is said that the people of the two districts beyond Mysore cannot carry it on in that manner. (Laughter, cheers). There are six districts in the Mysore territory, hence it is like saying that six are fit and eight are not fit. There is fitness in us beyond any doubt (cheers). You may then, for some reason admit it or not. Well. What authority is there for thinking that we possess fitness? I pointed to a Native State. I tell another thing. Keep yourself aloof for 10 years and see whether it can be done or not (cheers, laughter). If it cannot be done take (<sup>us</sup>) under your control after ten years (cheers). You are free (<sup>to</sup> do so). This thing, too, is not to be done.....There is *swarajya*. There is no *swarajya*. What does it mean? Why do we ask for? Do we say 'Drive away the English Government? But I ask what (is it) to the Emperor? Does the Ex-

<sup>1</sup> Sentence incomplete in the original.

<sup>2</sup> This sentence is incomplete in the original, and the construction of the following six lines is not clear in the original.

peror lose anything whether the administration is carried on by a civil servant or by our Belvi Saheb? (Cheers). The rule still remains. The Emperor still remains. The difference would be that the white servant who was with him would be replaced by a black servant (cheers). From whom then does this opposition come? This opposition comes from those people who are in power. It does not come from the Emperor. From the Emperor's point of view there is neither anarchy nor want of loyalty, nor sedition in this. What does *rajadroha* (sedition) mean? Hatred of the King. Does 'King' mean a police sepoy? (Laughter). I said some time back that this distinction must first be made. Otherwise, (lit. then) if tomorrow you say 'remove the police sepoy' would it constitute sedition? Such is the belief of police sepoys (laughter). In the same manner, go up a little and you will see that the demand made by us is right, proper, just and conformable to human nature. The same has been done by other nations. It has not been done only in our country. *Swarajya, swarajya*—what does it mean? Not that you do not want the English rule. There is a mistake at the root. Some one has some object in it. This argument is brought forward by men whose interest lies in deceiving you. Do not care about it at all.

'If you think that you are men like other men, when they go to England their intellect and they are put to the test there. Therein we stand higher. What else then comes out? Your intellect may be good, but you do not possess character, courage and other qualities (and) their nature. I admit for a ghatka (24 minutes) the absence of nature. But it does not follow that it will not be acquired (laughter). How can their nature at all become such, whose life is spent in service and in service alone? If it be said he worked as a clerk for 25 years, wrote on the cover (sic) the Saheb's orders, obtained the Saheb's signature thereon, and then he acquired the habit after 25 (40) years<sup>1</sup>; still, he will at first find it difficult to do work

<sup>1</sup> The sentence is not clear in the original.

this is not denied. But when the system under which such men are has disappeared, it cannot be said that men would not become fit in the next generation. Hence in my opinion we are fit for Swarajya. I shall now briefly tell you what we wish to obtain and what we should demand and conclude my speech.

"You know of what sort the Indian administration is. But the thing to be told is that it is carried on in accordance with a particular law. Its rules are fixed. What are the powers of the Secretary of State? What are the powers of the Governor-General? There are three great parts of the system. The Secretary of State is in England. The Governor-General is at Delhi in India. Under him there is a Governor for a Presidency. For the present let us omit those under him. But the main system is of the above three sorts. If we now begin to consider each, who appoints the Secretary of State? Not we. This arrangement was made according to the policy of the Company's government. When there was the East India Company's rule in this country, all matters were carried on on a commercial principle. The whole attention was directed towards (the question) how might the Company's shareholders obtain a considerable profit; the Company's Directors were in the place of the present Secretary of State. You might say that this was a contract given for governing the entire kingdom. Under the Peshwa's rule Mamlatdar's offices were given under a contract. This Indian administration was, as it were, according to the then law of Government, a trade carried on by the East India Company. They were to derive from it as much profit as possible. The Company's Directors were to be in England. Their attention was directed to the fact that profit was to be given to the Directors, i. e., share-holders. A letter used to come to the Governor-General here to this effect:—'So much profit must be paid to us this year. Realise it and send it to us.' This was the administration. The people's good was not (considered) in it. (It was like) the milk-man and his cows. If the cows do not give milk, he says bring

(the pot) after filling it by pouring water in it. The administration of India was carried on like that. Subsequently it appeared after discussion that this administration was not of a good sort. And when Queen Victoria—you may say the Parliament—took the administration in their hands, they did not approve of this trading system. They took it into their hands—this was one part. This system of administration has been formed in accordance with the commercial policy which was in existence when the administration was assumed (by the Parliament) and under which the Directors were in England and their servants were here. The State Secretary has come in the place of the Directors. The Governor-General (has) come in the place of their Governor. Thus what was done? The Sovereign—the Parliament—took the administration into their hands, but the establishment of employees which then existed has remained just as before. This happened in 1858 after the mutiny. From that time to this the administration of India has been carried on in accordance with rules and arrangement formed according to the Company's policy. If it was really to go to the king.<sup>1</sup> As there was the sovereign this nature of the Company should have disappeared. He is the King and we are his subjects. It is his duty to rule for the good of the subjects. And an arrangement should be made in accordance with the rules—lawful—that may be included in that duty. But this arrangement was made thus—the Directors went, the Secretary of State came in his place. Who is to decide how much money is to be spent in India and what taxes are to be imposed? The State Secretary. Such powers are not placed in the Governor-General's hands. He is the chief officer. The Governors are under him. He is a servant. There are other servants under him. And the entire administration must be carried on with the consent of, in consultation with and with the advice of this State Secretary. Such is the present policy. What happened then? Gradually.<sup>1</sup> This is but a commercial

policy. Though the administration went into the hands of the Queen's Government, and though they issued a great proclamation, the sovereign's policy is not on the lines of that proclamation. The sovereign's policy is in accordance with the trading Company's policy, the administration of the Kingdom is in accordance with the Company's policy. And in the meantime the proclamation has no effect. (Laughter, cheers.) Such was the arrangement. At that time our people did not know (it) I think that had the spread of education been then as great as it is now, the people would have contended that since the Queen had taken the reins of Government into her own hands, the administration of the kingdom should, as regards the sovereign and the subjects, be for the good of the subjects. Our people would then have told that the arrangement made by the Company was simply for its own benefit, and that a change must be made in that policy—in that arrangement. The people continued to make these contentions for many years. To put the matter very briefly, Mr. Dadabhai Naoroji (cheers), who is one of those living persons who saw this arrangement and pointed out its defects, began this work. What beginning did he make? He said 'What is the difference between the Company's (system) and this (system)? We do not (see) any in it. The rules are all made in accordance with the Company's policy. Are the people likely to derive any benefit from them?' Then arose these Legislative Councils. They were such that the Governor General was to appoint us. Originally (the members) were not to be elected (lit. appointed) by the people. Gradually your men became members (lit. officers) of the Municipality and of the Legislative Council. Still the final keys are in their own hands. Discussion may be held in the Legislative Council. You have full liberty to hold a discussion. You may hold a discussion about spending the money in this country. We shall decide whether it should be (so) spent or not. Subject your mouth and mind to as much exertion as

possible, we have no objection to it. Be awake throughout the night, prepare your speeches. Instead of printing them in a newspaper, we shall publish them in the "Bombay (Government) Gazette." This is the only difference. Nothing is got from this. The hope of getting is held out. There is a *shlok* (stanza) in the *Mahabharat* which says 'hope should be made dependent upon time.' Rights are to be given to you when you become fit. We do not wish to remain in India. When you become fit, we shall give the bundle into your possession and go to England by the English steamer (cheers). Such a time limit should be laid down. We shall give in two years. We shall give in ten years. Such a time came afterwards. 'Time should be coupled with obstacles.' Ten years were mentioned. These days passed and were very wearisome. We are obliged to make them fifteen. 'Hope and time should be coupled with an obstacle. An obstacle came. You yourselves must have brought it. We did not bring it. We were awaiting good time (an excuse should be coupled with it). The excuse came. How did it even come? It is an excuse, nothing can be said about it. Some quite different cause should be shown. This is a sort of policy. When you do not mean to give, how do you speak? It is not the case that this is written in the modern works on morality and politics. Only the old tradition has continued. Thus this bureaucracy has been cajoling us. For the last 5 or 50 years the State Secretary and the Governor-General too have been cajoling us in this manner—have kept us afloat. As soon as you proceed to make some noise, (it is said) there were five members, to-morrow we shall make them six. What is the benefit to us of raising the number from five to six? One of our men is only to be made to pass time there for nothing for a few days (cheers). There is no more advantage than this. (If) you object to six (they say) we make them eight. We raise our 10 to 12, if necessary. (Laughter and cheers.) The people are already convinced that this matter cannot be disposed of in this manner. Whatever rights you may have to give, give them to us absolutely, how-

ever great your own powers may be. If the management of the Educational Department alone be considered (it will be found that) most of the subordinate servants are from among us only. There is a Saheb at the head. Why is he kept there? With a view to restrain their mouths and the scope of their intellect. Even if 20 years' service be put in, the work will not be done without the Saheb, that poor man begins to say so. Such men are to be prepared..... Two distinctions are to be seen in these. When a gardener is asked by some one to prepare a garden here beyond this (place) he looks for (flower) pots. When big forests are to be prepared under the Forest Department, pots are not required. Bags of seed are brought and emptied. Trees grow everywhere to any extent. Some (of them) grow small, some big. This present arrangement is like that. Owing to this arrangement the trees amongst us do not grow. Nay, care is taken that the trees planted in pots look pretty (and) their flowers can be plucked by the hand. He is educated in such a way that\* such pretty trees may grow. In such a manner is he treated and made to work. And then after 25 or 30 years are past he begins to say 'I am really not fit for this work.' We do not want this system. We want the English Government. We want to remain under the shelter (lit. umbrella) of this rule. But we do not want the State Secretary who has been created as a son-in-law (cheers). At least we want our men, (men) elected by us in his council. This is the first reform that must be made. Similarly it must be decided according to our opinion who is to expend India's (revenues), how much money he is to collect (and) how many taxes he is to impose (cheers.) We say, there must not be those taxes. They will say how will the expenditure be met? That we will see afterwards. We know so much that expenditure is to be made according to the money (we) may have and (lit. or) that monoy has to be raised according to the expenditure undergone. We understand this. We will afterwards see what arrangement (should be)

\* This is not clear in the original.

made). The second principle of Home Rule is that these powers should be in the people's hands, in the hands of good men, viz., in the hands of men elected by the people. At present such a (great) war is going on in Europe. The Emperor does not decide how much money has to be spent on the war. Mr. Asquith decides it. If there is a complaint against the work done by Mr. Asquith, it goes before Parliament, and if Mr. Asquith has committed a mistake, he has to tender his resignation. Will it be sedition if he has to tender his resignation? There is difference in the arrangement, there is difference in the organization, there is difference in the system. And we are asking for such a change in the system. The rule will fall, the rule will go away—these thoughts are utterly foreign to us, they do not come within our limits, our reach, our view. And we do not also wish it. I again say, if the nation is to get happiness, if the thousands of complaints that have arisen to-day are to be removed, then first of all, change this system of administration. There is a saying in Marathi 'Owing to what did the horse become restive? Owing to what did the betel-leaves rot? Owing to what did the bread get burnt? There is one answer to it.' 'Owing to not turning. The leaves ought to have been turned, the bread ought to have been turned. Had the horse been turned, it would not have become restive.' The root of it is that, complaints about forests, complaints about Abkari, complaints about Kulkarni Vatans—(these have arisen) because authority is not in our hands. To state it in slightly changed words—because (we have) not *swarajya* (cheers). That we should have *swarajya* for us is at the root of it. Then (we) need not dance according to the wish of any one. This may happen even in *swarajya*. I do not deny it. When we have deficiency of money and powers are placed in your hands, you will increase the tax; you will increase (it) altogether voluntarily. Whence is the expenditure to be met? But as it will be increased voluntarily, it will not oppress our minds. Learned aliens may tell us, when we are passing like this through this door, that we should not pass

through this door but through that, but if any one comes and stands there and (begins to) tell us not to go through it, then we have to go out by giving him a push. The very same is the case with *swarajya*. This is the obstruction of the bureaucracy. We do not want such obstruction. The demand for *Swarajya* is such that it has nothing to do with sedition. It has nothing to do also with the invisible Government. This domestic arrangement should be managed by you yourselves and by doing so what will happen is that in the first place your minds will remain in peace. Whatever you have to do you will do with the thought that you are doing it for your good. Nay, you will also reduce the expenditure. I do not think that in any Native State a Collector does not<sup>1</sup> get a pay of twenty-five hundred rupees. If there is any place in the world in which a man doing the work of a Collector gets the highest pay, it is India (cheers). To give 2,500 rupees as pay to a Collector would, under the former rule, have been like giving an annual *jahagir* of Rs. 30,000? Have we ever given in our *Swarajya* such a *jahagir* of Rs. 30,000? Rs. 30,000 is not a small amount. There are reasons for it. What reason is given? Bear it in mind that there is some reason or another for everything. This (man) has to send Rs. 2,500 to England for his children, etc. For your welfare (they) come from a cold climate to a hot climate (and) get their health spoilt. Must not then pay be given to them? They have laboured so much, made such self-sacrifice, (and) suffered so many hardships, and you would not pay them money? When this is once told it appears to be right at first sight. But now the principal question is, who told them to come here from there? (Cheers.) We did not call (them). You do such work as you may be fit to do. We do (lit. may) possess as much fitness as you have, but we shall be able to do the work on less pay. Men can be had. Then why (give) so much pay to him? We don't need it. We think that we do not get to-day money for education. The excuse of 'no funds' which is brought forward in connection with the execu-

<sup>1</sup> Sic. CC-0. Jangarnwadi Math Collection. Digitized by eGangotri

tion of works of public utility will first disappear. The business will go on unobstructed just as at present. In the beginning it will not go on so unobstructed. Perhaps it may be less by an anna in the rupee. Still the good impression (lit. fine thing) that will be produced by (the thought) that the (business) has been carried on by the people, is of greater value. In this manner good management is to be asked for in this (administration). Amendment is to be brought about in the present law; it is to be brought about through Parliament. We will not ask for it from others. We have not to get this demand complied with by petitioning France. The Allies may be there, we have not to petition them. The petition is to be made to the English people, to the English Parliament. This state (of things) is to be placed before them. We have to do whatever may be required for this. If you carry on such an effort now for 5 or 25 years, you will never fail to obtain its fruit. Moreover, such a time has now arrived on account of the war that is now going on that some such effort must be made as will increase the value of India, India's bravery, India's courage, and India's stability. If the fact that they themselves are making this effort comes to the notice of Government, then there is hope of our demand soon proving fruitful. I have, therefore, purposely brought this subject before you. The subject is being discussed elsewhere also. The League which we have established for this purpose is such that I myself or some one else will have occasion to place the subject (before the people) at every place, if not to-day some days afterwards, for carrying on this work. Let this subject be always discussed by you, always think about it, get its usefulness explained, and carefully consider how much of loyalty (and) how much of disloyalty is in it. This is what I tell you on the present occasion. Though what I have to say may be much more than this still I have told you its substance in a brief manner. If the consideration of this be begun among you, be begun in Maharashtra, be begun in India, then some day or other this work will succeed; and even if this matter lies in God's hands still it is

necessary. I admit that it does not lie in our hands. But the effect of action (lit. *karma*) cannot fail to take place in this world. The effect of action may not be obtained so soon as I say, may not be obtained before my eyes, perhaps I may not be benefited by it. But this action must have its fruit (cheers). According to the law of action, when a certain action is done, another result, from it, (and) a third one results out of that. Such succession goes on. Time will be required, there will be delay. But do we ask at all that we should have *moksha*<sup>1</sup> before our eyes? Again do we ask for it with the thought that we should have it at the hands of a certain person? Only just now a Resolution was passed in our conference (that) the parties of Moderates and Nationalists are not wanted. That is to say, it is the same to us to whomsoever *swarajya* is given. There is no objection even if powers be given to your sepoy to-morrow. You may say, how will the sepoy exercise such a great power? The sepoy is to die some day or other and then we will see (cheers). We want rights. We want a certain sort of arrangement giving happiness. We will get it. Our children will get it. Make the effort that is to be made. Be ready to do this work with the thought that it belongs to you. I am sure that by the grace of God your next generation will not fail to obtain the fruit of this work, though it may not be obtained in your life-time (cheers).

### Mr. Tilak's First Speech at Ahmednagar.

31st May, 1916.

(Exhibit H.)

Mr. Chaukar, pleader, said:—

Gentlemen, this is a very fortunate day for our town. To-day we shall have the benefit of listening to Mr. Tilak's (cheers) nectar-like advice. Hence, without saying anything

more about it now, I request you to hear, with undisturbed mind and without making any noise his discussion of the subject on which he is going to speak and to make up your mind to act in accordance with it, and request you (referring to Tilak<sup>1</sup>) to begin your lecture (cheers).

" Gentlemen, before saying a few words to you it is my first duty to thank you very much. It is my first duty to thank you for the honour you have done to me by calling me here and for the address you have presented to me. Whatever the motive with which you have conferred the honour upon me, the few words, which I have now to tell you, relate to my work. Perhaps this may appear strange ( lit. contrary) to you. You have called me here and (if) I make a statement about my own work before you, that would be a sort of impropriety. Should you think that Mr. Tilak came here and told people his own things ( I say ) I do not hesitate at all to tell them at this place since the things which I have to tell you are of as great an advantage to you as they are to me. Till now controversies and discussions about the state of our country have taken place in various ways and at various places. What is beneficial to the people in general? Many things are beneficial. Religion, which relates to the other world, is beneficial. Similarly, morality too is beneficial. Provision for one's maintenance is beneficial. Our trade should expand, the population should increase, there should be plenty and that plenty should safely fall into our hands--all these things are desired by men. But it is not possible to discuss all these things in the short time allowed to me. I will, therefore, say a few words before you about such of the above things as are important and are considered important by thousands of people (and) about<sup>2</sup> a subject which is now discussed on all sides. This subject is *swarajya* (Cheers). Those things which relate to our homes we do authoritatively in our homes. If I desire to do such and

<sup>1</sup> These words are in English and enclosed in brackets in the original.

<sup>2</sup> The construction not clear in the original.

such a thing, if it be merely a private one, I have not to ask any one about it nor to take anybody's permission nor is it necessary to consult any one else. That is not the case in public matters. As is our own good just so is the good of all people. If we consider how people would begin to live well and how they would attain a condition of progressive improvement we shall see that, whatever things we take (for consideration), we are handicapped in consequence of there being no authority in our hands. If a railway is to be constructed from one place to another, that is not under our control. As for trade, I might talk much about giving encouragement to such and such an industry but it is not wholly in our power to acquire knowledge of that industry at the place where it is carried on to lesson the trade of those people in this country and increase our own trade. Whatever thing we may take it is the same with it. We cannot stop (the sale of) liquor. There are also some things which are not wanted by us or by our Government, but the course of the general administration is such that it is not in our power to make any change,—the slightest change,—in it. We have till now made many complaints and Government have heard them; but what is the root of all the complaints? What things come in the way of improving our condition as we desire (and) what is our difficulty,—this has been considered for about 50 years past, and many wise people have after considering this thing, discovered one cause of this, which is that our people have no authority in their hands. In public matters, different (lit. many) people have different opinions. Some say, 'Do you not possess authority? Do not drink liquor, and (all) is done.' The advice is good (lit. sweet) indeed, but stopping all the people (from drinking liquor) cannot be done by mere advice. This requires some authority. He who has not got that authority in his hands cannot do that work. And if it had been possible to do the work by mere advice, then we would not have wanted a king. Government (administration) has come into existence for giving effect to the things desired by a large number of people. And as that

Government is not in our hands, if anything is desired by thousands of you but not by those who control the administration, that thing can never be accomplished. I had come here on a former occasion. What about the famine administration (of that time)? When (lit. on which day) Government came to know that the weavers sustained great loss during famine, some steps were taken about it. We have lost our trade. The business of commission agency used to be carried on formerly; it is not that commission agency (business) did not exist before, nor that it does not exist now. The business of the agents is carried on at present. The difference is that while at that time you were the commission agents of our trade, you have (now) become the commission agents of the business men of England. You buy cotton here and send it to England and when the cloth made from it in England arrives, you buy it on commission and sell it to us. The business of commission agency has remained, but what has happened in it is that the profit which this country derived from it, is lost (to us) and goes to the English. The thing (is) that the men and the business are the same (as before) but owing to a change in the ruling power, we cannot do some things. Such has become (the condition) that such things as would be beneficial to the country cannot be carried out. At first we thought that since the English Government was as a matter of fact alien, (and) there was no sedition in calling them so, there would be no sedition whatever nor any (other) offence in calling (alien) those things which are alien. What is the result of alienness? The difference between aliens and us is that the aliens' point of view is alien, their thoughts are alien, and their general conduct is such that their minds are not inclined to particularly benefit those people to whom they are aliens. The Muhammedan kings who ruled here at Ahmednagar (I don't call Muhammedans aliens) came to and lived in this country and at least desired that local industries should thrive. The religion may be different. The children of him who wishes to live in India, (also) wish to live in India. Let them remain. Those are not aliens who desire

to do good to those children, to that man, and other inhabitants of India. By alien I do not mean alien in religion. He who does what is beneficial to the people of this country, be he a Muhammedan or an Englishman, is not alien. 'Alienness' has to do with interests. Alienness is certainly not concerned with white and black skin. Alienness is not concerned with religion. Alienness is not concerned with trade and profession. I do not consider him an alien who wishes to make arrangement whereby that country in which he has to live, his children have to live and his future generations have to live, may see good days and be benefited. He may not perhaps go with me to the same temple to pray to God, perhaps there may be no intermarriage and interdining between him and me. All these are minor questions. But if a man is exerting himself for the good of India, and takes measures in that direction, I do not consider him an alien..... At first I thought that there was nothing particular in this. The Peshwa's rule passed away and the Muhammedan rule passed away, (the country) came into the possession of the English, but the king's duty is to do all those things whereby the nation may become eminent, be benefited, rise, and become the equal of other nations. That king who does this duty is not alien. He is to be considered alien, who does not do this duty, but looks only to his own benefit, to the benefit of his own race and to the benefit of his original country.....

At first hundreds of questions arose. Agricultural assessment then increased, the Forest Department was organised in a particular manner, the Abkari Department was organised in a particular manner,—about all these things we have been constantly complaining to Government for the past 20 or 25 years. (But) no arrangements about the different departments, the different professions, the different trades and the different industries, were made (accordingly). This is the chief question of the past 50 years. While looking out for cause of this, we at first believed that when we informed the Government of it, it would at once proceed to do as we desired.

The Government is alien. It does not know (the facts). When 5 or 10 of our prominent men assembling together tell Government, the latter will understand it. It being alien it cannot understand it. As soon as the Government is informed of this, it is so generous minded and wise that it will listen to what you have to say and redress (the grievances). Such was our belief. But the policy (lit. conduct) of Government during the last 50 years has been the cause of the removal of this belief. However much you may clamour, however much you may agitate, whatever the number of grounds you may show, its sight is so affected as not to see the figures drawn from its own reports and set before it. The same arguments and the same grounds do not meet with its approval. If we say anything to it, it sticks only to what may be adverse to our statement. Perhaps some one may come and tell you that there is nothing to wonder at in this. Whether the Muhammedans or the Hindus or the Peshwas or the Emperor of Nagar may have been (may be) your rulers, those kingdoms have been broken up and now the rule of the English has been established. Of course those people do just what is beneficial to them. Why then do you complain about them? This is sure to happen. Such is the opinion of several people. This your outcry only becomes the cause of giving pain to Government and in a manner disturbing its mind. For this reason do not raise this outcry and accept quietly what it may give. Accept gladly what little (lit. quarter of bread) it may give and thank it. Such is the opinion of several people. I do not approve of this opinion. My opinion is that whatever be the Government whether British or any other, it has, as Government, a sort of duty to perform. Government has a sort of religious duty to perform; a sort of responsibility lies on its shoulders. I say that when a Government evades this responsibility it is no Government at all. Government possesses authority. All the power possessed by Government, be it acquired by it by fighting or be it conferred (upon it) by the people.....<sup>1</sup> Still Govern-

<sup>1</sup> The sentence is incomplete in the original. Digitized by eGangotri

ment has a duty (to perform). As we have a duty, so those who are called Government have also a duty. They must do certain things. The Government has already admitted certain duties. Does not Government do such works as constructing roads, establishing post-offices and telegraphs? It does. If tomorrow some one were to say 'If Government does not construct roads, it is its pleasure. It may construct them if it likes, but not if it does not like,' then all of you who are assembled here we find fault with him saying, 'If these things are not to be done by Government, why do we pay taxes? If the Government will not utilise for the people's conveniences taxes levied from us, it has no authority to take any taxes whatever from us. Government take these for our benefit. When any persons argue before you that the Government is good, what do they show? The question is always asked 'This our Government has constructed roads, made railways, established telegraphs and post offices— are not these conveniences made for you? Why do you then raise an outcry against Government?' I do not say that these things have not been done, but that those that have been done are not sufficient. These things have been done, done well and have been done better by the British Government than they would have been done by the former Governments—this is an honour to them. But should we not tell it to do these things which it does not do? But that is not a real Government which considers itself insulted when told of those things which have not been done and a desire to do which is not apparent even now, which does not direct its attention to them though told in many ways, and which thinks that we should not tell those things to it. What then is meant by a real Government? This must be considered a little. There is a vast difference between the present system and the old system. At present an effort is being made to create a sort of erroneous conception. Neither the Collector nor the civilians arriving (here), who are called the bureaucracy in English, are Government. A police sepoy is not Government. It does not constitute any sedition whatever to

say, 'Do something if it can be done, while maintaining the British rule which is over our country, without harm being done to that rule and without weakening it.' We want the rule of the English which is over us. But we do not want these intervening middlemen lit. keepers of granaries (cheers). The grain belongs to the master, the provisions belong to the master. But remove the intervening middlemen's aching belly, and confer those powers upon the people so that they may duly look to their domestic affairs. We ask for *swarajya* of this kind. This *swarajya* does not mean that the English Government should be removed, the Emperor's rule should be removed and the rule of some one of our (Native States should be established in its place.). The meaning of *swarajya* is that explained by Mr. Khaparde at Belgaum, viz., we want to remove the priests of the deity. The deities are to be retained. These priests are not wanted. We say appoint other priests from amongst us. These intervening Collectors, Commissioners and other people are not wanted. Who at present exercises rule over you? The Emperor does not come and exercise it. He is in England. If some facts were communicated to him, it is his wish that good should be done to you. Why then is not good done to you? Hence we do not want these priests (cheers).<sup>1</sup> Those people are clever. You say that no priest is wanted. They will say 'We have passed examinations. We do many things'. All things are true. But their attention is directed more to the remuneration<sup>2</sup> belonging to the priest. Hence this priestly office should remain in our hands. The position of the Badwas<sup>3</sup> of Pandharpur and these (people) is the same (cheers).<sup>4</sup> Will there be any loss to the Emperor if the said priestly

<sup>1</sup> The word is in English in the original.

<sup>2</sup> The original word is *Vrityansh* which means a co-share of an estate, office or occupation as a means of subsistence.

<sup>3</sup> The priest of Vithoba's temple at Pandharpur.

<sup>4</sup> CC-0. Jangamwadi Math Collection. Digitized by eGangotri  
The word is in English in the original.

office does not remain in the hands of the bureaucracy who are endeavouring to retain it? There will be none. Some will say that the English people belong to the Emperor's race. But after we have become the Emperor's subjects he does not make any distinction between the English subjects and the black subjects. He does not wish to make it. The meaning of the word *swarajya* is Municipal Local Self-Government. But that is a farce. It is not sufficient. When an order comes from the Collector, you have to obey it. He (Collector)<sup>1</sup> has power to meddle. He has power to call the President and tell him to do such and such a thing. If the President does not do it, the Collector has power to remove him. Then where is the *swarajya*? (cheers).<sup>2</sup> The meaning of *swarajya* (as stated) above is retention of our Emperor and the rule of the English people, and the full possession by the people of the authority to manage the remaining affairs. This is the definition of *swarajya*. What we ask for is not that the authority of the English should be lessened, nor that the English Government should go away and the German Government should come in its place. On the contrary, the present war has proved and the whole world has seen that it is not our wish that the German Government should come here. Nay, in order that the rule of this Government should remain here permanently, thousands of our people are to-day sacrificing their lives in the most distant and cold climes (here, here, cheers).<sup>2</sup> What is left then? If in order that this rule may remain and that this rule should not go away and the rule of the German people should not come in its place, we pay money—be it according to our means—though we are not as wealthy as the English.....<sup>3</sup> According to our ability, our fighting men are going (there) and sacrificing their lives and in this way exerting themselves. France, Germany and (lit. or) other nations

<sup>1</sup> The word is in English and enclosed in brackets in the original.

<sup>2</sup> These words are in English and enclosed in brackets in the original.  
CC-0. Jangamwadi Math Collection. Digitized by eGangotri

<sup>3</sup> The sentence is left incomplete here in the original.

commending and applauding them (cheers, hear, hear)!. By shedding our blood we have proved our desire that our loyalty to the English Government should be of this kind (hear, hear and cheers). I do not think that any man can adduce stronger evidence than this in his favour. Thus to-day it is an undoubted fact that we want here the rule of the English alone and accordingly we are exerting ourselves. If such is the state of things, why should not these intervening people who have been appointed be removed and why should we not get the rights possessed by the people in other places within the British Empire? We are not inferior to them in point of bravery and education, we possess ability. Such being the case, why should we not get the rights? Why should the Emperor make a distinction between his black and white subjects? Who has given such advice to the Emperor? The peculiar feature of the British constitution (lit. rule) is that the Emperor acts on the advice of the people. Why should the ministers give him such advice? At present those who possess power, i. e., the bureaucracy, are white. When a black man goes among them he too becomes like them. Under the present system, if a native on his arrival from England after passing examination be appointed to be a Collector, he after going among them becomes just like them. Do not think that I am speaking only about the white. We do not want this system. What does it matter if a man or two goes among them? He cannot do anything in particular. Therefore this system must be done away with. We would not be satisfied by the appointment of one or two persons. Let that be. Who introduced the system? The Emperor did not introduce it. The Queen's proclamation as promulgated is of one sort (lit. on one side) and the present system is of another sort (lit. on one side). At present it is not all left in our hands to bring about our own good. Were we to think that encouragement should be given to swadeshi goods by imposing duty on certain imported foreign goods, that is not in our hands. Were we to think of starting such and such industries required in this country (or)

of importing paid teachers from foreign countries, that thing is not in our hands. What a small thing this is ! It is necessary that all people should know reading and writing. Whether a man be a Muhammadan or of any (other) religion or of any caste, he ought to know a little of reading and writing. This thing is now acknowledged by all people throughout the world. There is now no doubt about this. By knowing reading and writing a man derives at least some benefit. No one requires to be told of this anew. Then why is not that thing done here ? Because there is no money. Who gives this excuse ? This excuse is given by the bureaucracy. Their pay is Rs. 2,500 and if it is to be raised to 3,000, then there is money. The same was the case with exchange compensation. When the price of the rupees or (silver)<sup>1</sup> fell, six crores of rupees were brought out by Government on account of exchange. At that time money was found. Unless you have authority in your hands these things which are taking place cannot be got over. There is no money for education, but (lit. and) there is money to pay a salary of Rs. 2,500 to the Collector. To whatever degree of clearness we speak about and tell this thing.....<sup>2</sup> Moreover the present bureaucracy does not consider that thing from the point of view from which we would consider it if authority were to come into our hands. At first we were told that money should be spent on education. When people begin to know how to read and write the number of offences committed falls by thousands, they carry on their dealings well ; they understand what is of advantage and what is of disadvantage to them. When people become fit in this manner an officer of Rs. 2,500 will not be necessary to govern them. One of Rs. 500 will do and we shall be able to spend Rs. 2,000 on education. In no other country are there so highly paid officers at present. The Viceroy who comes to govern India gets Rs. 20,000 a month, while the Prime Minister of England gets Rs. 5,000. He who remaining in England

1. The brackets occur here in the original,

2. Sentence incomplete here in the original.

manages the affairs of the whole Empire gets Rs. 5,000, while he who carries on the administration of India here gets Rs. 20,000. Why so? There is no answer to this. This is so because this thing is managed at the cost of others (lit. direct) (cheers).<sup>1</sup> This is India. Go and eat. If any shop belonging to other people is made over to you for management, you will pay the employee a salary of Rs. 100 if he belongs to your community or caste while you would pay him a pay of Rs. 50 in your own shop.<sup>2</sup> In this way the present arrangement is being carried on. We are not at all benefited by this arrangement. Thus it is not the case that these things have come to our notice for the first time. It is 50 years since the things came to our notice. When the National Congress was held at Calcutta in 1906, Mr. Dadabhai Navroji (cheers) stated this distinctly. He gave it as his 50 years' experience that for counteracting this present irregularity and the sort of injustice that is taking place in India, there is no other remedy than that the power should pass into the people's hands. He called it Self-Government. And in the hands of the people.<sup>3</sup> We must decide upon the arrangement as regards what is to be done in our homes, what is to be done in our villages, what is to be done in our country and what is to be done in our presidency. If we decide about this, it will be done at a small cost, it will be done well, and our decision as regards in what matter we should expend more money, and in what matter less, will be more beneficial to the people. The bureaucracy says that we do not possess knowledge as if they alone possess it. Their first look-out is to see how their pay will be secure. When money comes into the treasury the expense on account of their pay must be first defrayed. Their military expenditure must be first defrayed. They must be

1. This word occurs in English in the original.

2. The construction of this sentence is confused in the original. But the general sense appears to be as given below. Digitized by eGangotri

3. These words have no connection with what follows.

first fully provided for. If money remains after this, it is to be applied to education. They do not say that education is not wanted. Education is not a bad thing in their eye. But the people are to be educated and their other conveniences are, if possible, to be looked to after all (the above) expenditure is defrayed. This is to be thought of afterwards. We shall first consider whether (you could) manage things or not if power were to come into your hands. If you think that more pay has to be paid to these people then reduce it and tell them that they will have to do the work for the country. When all these things will be considered in this manner, we shall have in our hands the opportunity of bringing about those things which it is desirable to bring about. This is mere speculation (lit. consideration). Where is your difficulty? There is a common saying in Marathi: A certain man asked three questions. Why (lit. where) does the horse become restive, why did betel leaves rot—the story occurs in the third book: it was there formerly, I do not know whether it is there now.—He gave a single answer to two or three such questions, which is, 'owing to not turning.' Similarly, (why) is (not) the consumption of liquor reduced in our presidency, why are the people subjected to zulum in forests, why is money not available for education?—All these questions have one answer, and it is this: Because you have no power in your hands' (cheers)<sup>1</sup> and so long as this power will not come into your hands, so long there will also be no dawn of your good fortune. Whoever may be the Emperor we speak not anything about him. But we must do those things which relate to business, trade, religion and society. Unless the power of doing those things comes partially into our hands—in the end it must come fully—unless it come fully into our hands, it is impossible for us to see a time of plenty, the dawn of good fortune, advantage or prosperity. Water cannot be drunk with others' mouths. We ourselves have to drink it. Similar is the present arrangement that of drinking with others' mouths. We ourselves must

<sup>1</sup> This word occurs in English in the original.

draw our water—the water of our well—and drink it. If that well belongs to Government a tax of a rupee per month may, if necessary, be paid. But we want power. There are no means of salvation for us unless we have it in our possession. This principle of politics is almost settled—proved—from the point of view of history, morality and social science. Now (lit. then) you may ask why it was told to you for so many days. I have to say a few words about this. That power should come into our hands or the time of its coming into your hands is approaching (lit. beginning to be seen).<sup>1</sup> Up till now the generality of people in England thought of deriving as much profit from India as possible (and that) India was a sort of burden to them. The people in England used to think that the 30 crores of people in India would overthrow their rule some time or others ('hat) they should be disarmed (and that) they must be kept in slavery and under control as much as possible. But that condition is now changed. Owing to the war which is now going on in Europe, it has begun to be thought that unless all the many parts of the British Empire unite together, that Empire would not attain as much strength as it should. It has so happened now that a consciousness has been awakened in them that they stand in need of aid from other countries called colonies belonging to them—Australia, Canada, (and) New Zealand, which are inhabited by Sahebs. If you take advantage of this awakened consciousness, you too have this opportunity of acquiring some rights. No one tells you to obtain these rights by the use of the sword. But to-day the nation's mind has undergone a change. India can give some help to England. If India be happy England too will acquire a sort of glory, a sort of strength and a sort of greatness. This consciousness has been awakened in England. If no advantage is taken of this awakened consciousness at this time, such an opportunity will not occur again. The bureaucracy considers this to be bad. Who will be the loser in this? Not the Emperor, but the bureaucracy. They therefore, consider this thing

<sup>1</sup> Sentence is not clear in the original.

to be bad, and they are now telling (lit. advising) us that we are not fit for *swarajya*, and that, therefore, they have come here. As if there was no *swarajya* anywhere in India when they were not here! We all were barbarians and ready to cut each other's throats. There was no system of administration under the Peshwa's regime. There was no system of administration under Muhammadan regime. We were not able to carry on State administration, we were not able to construct roads. We did not know how the people might be happy. Nana Phadnavis was a fool, Malik Amber was a fool, Akber and Aurangzeb were fools. Therefore these people have come here for your good and you are still children (laughter). Let us admit for a moment also that you are children. When are you now to become grown up? In law when one attains his 21st year one is considered to be grown up. Though these (people) have ruled over us for 50 years we have not been able to become grown up. What then did they do for 50 years? If the people of India were children whose duty was it to educate (lit. make wise) them? It was their duty. They were the rulers. I go so far as to say that they have not done this duty—hence not only are we children, but they are unfit to rule (cheers). This alone is good that those people who could not improve (the condition of) their subjects during 50 years should give up their power and make it over to others. If there be a manager of your shop and if he performed the duty of *munim* for 50 years, but there was only loss continuously for 50 years, what would you tell him? Sir, give up your place and go away. We shall look to our own management. Another may be of a lower grade. Though he may be less clever, he will at least know that in managing a shop there should at least be no loss. This at least he must know. What (those) people tell us, viz., that we have not become fit, proceeds from selfishness. If what they say be true, it is in a way disgraceful to them. They are being proved to be unfit. And if it be false, they are selfish. We can draw no other conclusion from this than the

above. What is meant by 'we are unfit'? What is the matter with us? Our municipal management is tolerated. If someone comes from England after passing examination and becomes a Collector that is tolerated. They discharge their duties and Government commends them. But when the rights of *swarajya* are to be given to the people, to tell all people, crores of people plainly that they are unfit (lit. to give a certificate of unfitness) is to make an exhibition of one's own unfitness (cheers).<sup>1</sup> Besides this, objections of many other sorts are taken against *swajya*. In the first place, I have already said that they unhesitatingly (lit. at once) decide that the whole nation is unfit. If we say, 'hold an examination' no examination too is held. Unfit, unfit—what does it mean? Set your men to work and set our men also to work. See whether they do or do not work properly. No opportunity to work is given and yet we are called unfit. Are even those, who have been given an opportunity, found unfit? There are members in the Legislative Council, are they unfit? Have they ever called themselves unfit? Have you ever called them unfit? No. What does then unfit mean? You don't mean to give. In order to say there is no buttermilk, is deceit necessary? To-day being Sunday, there is no buttermilk—such is the shuffling that is going on now. I want to ask you whether you without allowing that shuffling are prepared or not to make a resolute demand. If you are not prepared to ask, if you do not make urgent solicitation about this,—if you throw away the present opportunity, such an opportunity will not come again for 100 years. Therefore, you must be prepared. I know that if after being prepared we spoke a little forcibly, some police sepoy may say 'O you': (this is not unlikely). But it must be put up with. There is no help for it. We have no power in our hands. We can not say to the police sepoy, 'you are a fool, go back.' He obeys the Police Inspector's order. But I can tell you that if you people of all castes and religions, become united and at this time make this demand of Government resolutely and unitedly

press (it) earnestly, be prepared to bear any expense that may be necessary for this, (and) proclaim not only to Government but to the whole world that unless your demand be granted you would not be satisfied nor remain contented,—if you possess so much resoluteness I am sure that by the grace of God you will not fail to have the demand granted to you pretty soon. This will be (lit. is) the fruit of your resoluteness. Whether in religion or in politics, resoluteness is required and that resoluteness of mind does not come without courage. It will not do to say ‘How will it be? Whether good or evil may result, we want this very thing. We will ask for this very thing. For this we will collect money and undergo any expenditure or exertions that may be necessary and we will not stop this agitation till this our demand is satisfied. If this work is not completed within our life-time, our children also will keep up this same agitation. When there is such devotion for this work, only then fruit will be (lit. is) obtained. Without devotion, no fruit is obtained from God, from King, in this world or in the next world. If you do not possess this devotion, no fruit will be obtained though strenuous exertions be made in this manner. First, devotion is required. Both rich and poor must possess devotion. The poor must help in their own way, the rich must help in their own way. Those who possess intelligence must help by means of intelligence. Every man must bear this thing constantly in mind. If you do not bear this (lit. such) thing constantly in mind, if you do not prepare yourself to make exertions, then it will be sheer folly to blame others for failure. Perhaps the word folly may have been disliked (by you). I uttered it in the heat (of speaking). But my firm belief is that we have not yet begun to make efforts as strenuously, as earnestly and as devotedly, as we should have. If a Saheb were to ask (lit. tell) whether there would be confusion or not if powers were given to us, we say yes, yes. We have no men! The men are not prepared! And then we laugh at the Saheb in our house; we must laugh then.

(cheers) (laughter.)<sup>1</sup> It will not do to laugh in our house. The reply must be given just to his face. We must be prepared to maintain the things which we consider to be true and tell them to the people, to the officers, and even to the Emperor. On the day on which you will be ready (to do this)—particularly in these days after the war is over—the administration shall have to be changed in some respects at least. If the administration be like the present, England cannot grant any authority among European nations.<sup>2</sup> At present England is the most powerful of all. The English Government is the most powerful, but to keep it so, change must necessarily be made in the present administration. As a matter of fact they say, 'make that change.' India does not say that the change should be made. Some defects or others are found therein. I stood up to-day; another will stand to-morrow and say that your good does not lie in this. The arrangement which exists at present is itself good. There is the benign Government. The bureaucracy is wise. Therefore if you act in accordance with their principles, that would be well. This is not the condition of traders (lit. this condition does not apply to traders). This is not the condition of intelligent people. This is not the condition of people of any religion such as Musalmans, etc. It is not the case that it applies only to one class, only to Muhammadan merchants. The thing which I am going to tell is not for Musalmans, for Hindus, nor for traders. It applies to all. There is only one medicine for all people. That medicine is power; take (it) in your possession, when it comes into your possession, if there be any disputes between you and us, we would be able to settle them. After the power has come into our hands there would be much time to settle them. If there be any difference of opinion in religious beliefs, that too we will remove. We want power for this. We want power to settle disputes. It is not wanted for increasing them. Aliens

do not know as much as we do what we have to do for our country. Their point of view is different. Hence, British Government being maintained at the head, one and the same Emperor will rule over India as he does over the British Empire. But introduce here an arrangement similar to that in other Colonies. There, in those Colonies, they have got in their own hands all the power, the right of ownership, (and the power to make laws<sup>1</sup>). That does not affect the Emperor. There is no attempt to overthrow the British Government. But this is an attempt to make the British rule more pleasing to the people. Some people will lose their means of maintenance, that is not denied. We do not think that the Emperor has reserved India for those people. The present arrangement has come into existence for some reason. It must go away. The Emperor ought to give powers into the hands of the people, and without making any distinction between Indian and British subjects, between the white and the black subjects<sup>2</sup>. As they are the Emperor's subjects, so are we to his subjects. We must become as happy as they. The thing which some wise, learned and thoughtful people have now decided to be the key of all these, is *swarajya*. The time for it has now arrived. I have explained to you the meaning of it. I have told you how its time has come. But though things may exist, your resoluteness is the final thing. The opportunity (lit. time) which has come will be lost. Though the arrangement of which I speak be in contemplation, you will not get it. There must be resoluteness on your part. Fortunately the thing, about its acquisition is that the agitation of this kind has now begun. Recently we have established at Belgaum an institution to work for *swarajya*. An institution has been established in Madras. This subject is already before the Congress and it will dispose of it one way or the other. But though the several provinces make the

<sup>1</sup> This sentence is incomplete in the original.

<sup>2</sup> This sentence is incomplete in the original.

arrangements and render help to them.' At least (you) must show so much courage that if some one the Collector, Commissioner ; etc.—were to ask 'what do you want' ? (he should be told) ' We want power, there must be power in our hands'. Government servants should be considered to be people's servants. Do not think that when in future power comes into your hands, you are not to entertain Europeans as servants. If he can work well, we shall keep him, and we shall pay him what we may think proper. But he must be our servant, we are not his servants. If we entertain this desire and make efforts for it, then this thing is capable of accomplishment. For this give the help that may be required. Be prepared to render such assistance as may be required to those who may come to speak to us in connection with this. And when you are thus prepared—people of different places, not only of Bombay, Poona, Nagar, but also of Bengal, Madras etc.—if people of all places be prepared, this thing is feasible. To accomplish it, to accomplish it soon, begin to work for it. Having told this much to you, and expressing a hope that the time for India soon to see some fruit or other in accordance with the above will arrive, and asking your forgiveness for any mistakes I may have committed in my lecture, or for my taunting words that I may have uttered respecting you, I thank you heartily (cheers)."<sup>2</sup>

## Mr. Tilak's Second Speech at Ahmednagar..

1st June 1916.

Place : Old Cloth Market, Nagar.

Time : 9-15 P.M.

(.Exhibit I. )

Mr. Chaukar requested Mr. Tilak to deliver his lecture.  
(cheers).

<sup>1</sup> Not clear in the original.

CC-0. Jangalwadi Math Collection. Digitized by eGangotri

<sup>2</sup> The word is in English in the original.

Mr. Bal Gangadhar Tilak said :—(A shout of 'Tilak Maharajki jaya') "I had thought that I would probably not have to deliver another lecture after the one delivered here yesterday. On that occasion I have already told as many of the two or four common things about *swarajya* as could be told within an hour. But this subject is such a one that, not only one, but even ten lectures on it will not suffice. Therefore I am to-day going to speak again about two more things about *swarajya* which were not told yesterday, in such a way that the very same subject would be made more clear, would be better understood and the people's ideas (about it) would be more distinct. My general opinion is that what reforms we want are reforms relating to *swarajya*. You may perhaps know the story (lit. maxim) about the old woman. It is to the following effect : That old woman, after the deity had been propitiated, considered as to what she should ask, and prayed for the following boon : The deity should give me such a boon that I would actually see my grandsons dining in dishes of gold, that is to say she should remain alive till that time, that she should have a son, that he should earn wealth, etc. etc. In this small boon the whole object is included. Similar is the case of *swarajya*. If we do not get *swarajya*, there will be no industrial progress, if we do not get *swarajya*, there will be no possibility of having any kind of education, useful to the nation, either primary or higher. If we do not get *swarajya*, it will not be merely to advance female education or secure industrial reform or social reform. All these are parts of *swarajya*. Power is wanted first. Where there is power there is wisdom. Wisdom is not separate from power. If it be, it becomes useless. In no nation this proposition is required to be made particularly clear. But it is required to be explained in a particular manner to our people. The reason of this is that there is no *swarajya* in our country. Some people raise this objection against our party : Why do you not effect social reform ? This is said not by us but by those who do not mean to give rights of *swarajya* to us, but wish to transfer the

train of our agitation from one track to another. There are many people who have effected social reform among themselves. Social reform is thoroughly introduced in Burma. There is one religion. There the people are prepared for anything. Their children marry any one they like. But that country is wholly immersed in a state of dependence. There is no spirit of nationality in respect of anything there. Then, what is wanted? We are one nation. We have a duty to perform in this world. We must get the rights which belong to man by nature, we want freedom. We must have in our hands the right of carrying on our affairs. If you do not get these things, no reform would be fruitful for you. That is the root of all reforms. No power no wisdom. Mere book learning is useless. If you believe that the people who have come to rule over us are superior to us in intelligence and learning, such is not my own belief. We can show as much learning, as much courage, as much ability as they. Perhaps they may not be apparent now, but they are in us. There are conjunctions in history as well as in astronomy. When the Muhammadan rule was declining, the Marathas had only recently risen. Afterwards, the English having set foot in this India, the whole power has passed into their possession, and their power is the cause of the admiration which we feel for them and the pride—be it true or false—which we feel for their ability. And when even a small portion at least of this power comes into your hands, then your wisdom will be of any use. Many things are now wanted by us. Our industries must be improved. But why was it stopped? Who stopped it? If we begin to look out for the cause of this, (it will appear that) we did not stop this industrial reform, we did not stop this economic reform. In that nation, in which there is a way and there is liberty to rise and to show one's ability, good qualities flourish. If you possess wisdom, when you assist some great officer and he commends you, then you think that you possess ability. This is a sort of feeble-mindedness—want of spirit—and it has enveloped the whole nation. You say 'I cannot do it.' You

never did it, no one gave you *sanad*: even before it you make an outcry that you cannot do such and such a thing. Saying so they take to some other path. In my opinion it is a great misfortune that, in our Maharashtra at least, some people should bring forward this excuse in the above manner and come in the way of the agitation which is carried on for the acquisition of the rights of *swarajya*. Have we not done these things? Think of this, Maharashtra certainly possesses a quality that can be utilised for the nation. But at the present time we do not get an opportunity of making use of that quality, and our mind does not turn to some other thing, such as female education or this or that thing, (simply) because that opportunity is not given to us (cheers). If any one else sees any danger in this he may do it, but my mind cannot be convinced, has not been convinced, nor do I think that it will be convinced during the few years that are left (cheers). It is vain to speak of other subjects. At present our people are not endowed with heroism, courage and learning, when our women are educated their generation will become of that sort, but even that is to arise from our own seed (cheers). If any one has such a belief (as the above) that is wrong. I do not say that female education is not wanted but when they tell us to turn to it, in order to stop this agitation on this side then we say: this is a remedy to kill the nation. If you do not possess strength, if you have no pluck to acquire anything, it is quite foolish to take an educated wife and say that the issue begotten of her would be of the above sort and that those our sons would make some exertions in order to discharge the obligation (under which they would be to us) (cheers). You must stand on your own legs. You must bring about these things. And you must first bring about the chief of those things. The experience of those who have made exertions for the past fifty years is that this *swarajya* is the key to all (things). And if this does not come into your hands, \* then (if you say) 'We shall effect this reform after

making exertions (for) minor (reforms). If you mean to effect (it thus) do so, I have no objection (to it.) But that will not be helpful to this (*swarajya*).<sup>1</sup> is not helpful to this course. And I am to speak again to-day on the same subject on which I spoke yesterday in accordance with the same opinion. Yesterday I told (you) what *swarajya* means. By *swarajya* it is not meant that the English should be driven away. It does not matter whoever may be the king. We have nothing to do with the king. When we get our rights, that is sufficient. And whoever might be the king over (us), those rights can be obtained. There is a king in England. But have the English people rights or not? The King of England is himself one Emperor. Hence, if, while his kingly position is maintained in England, the English people obtain rights of freedom, then what difficulty is there in our obtaining the rights of British citizenship, the same King continuing to be Emperor in India? No difficulty of any sort remains. This dark imputation which is made, viz. that the agitation about Home Rule—*swarajya*—is seditious and in the belief of which as sedition a security of 2,000 rupees was taken from Mrs. Annie Besant the other day—this imputation, this accusation, does not come from the Emperor or from the subjects, but from the intervening granary-keepers (cheers). The duty which you have to do is that this administration must be changed. The King need not be changed. Unless the system—the arrangement—according to which the present administration is carried on is changed, every man in India will become more and more effeminate. The duty which we have to perform is that.<sup>2</sup> Some people say, what does it matter if there is slavery? It is not that (they) at least give to eat? (They) do not (starve) any one to death.<sup>3</sup> Even the beast and birds get to eat. To get to eat is not the aim of man. To feed the family is not the end of

1. These brackets are in the original.

2. This sentence is incomplete in the original.

3. The word may also mean kill, beat.

man. 'Even a crow lives and eats offerings.' A crow maintains himself. They have not to rise crops. They get every day cooked rice to eat. I do not consider it manliness merely to maintain oneself and fill the belly, to obey the commands of the king after accepting those posts which may be kept open within the limits laid down by him (and) to maintain oneself according to his direction. This nature is common to beasts and men. If there is required the quality of manhood in man, then it must be seen whether there is any scope open for our intellect, our ability, our courage and boldness. Such scope is not open for India. Therefore, if we have any duty (to perform) then the first duty is, take a portion of this authority into your possession, it does not matter if you take a little portion of it ; as the President (Mr. N. O. Kelkar, President of the Nagar District Conference) has said briefly, if we do not entertain the hope of being free to act (in matters of) spending our own money, deciding according to our own understanding according to the consent of five or ten men as to what purpose the tax which we pay is to be applied, then, according to the law of nature this kind of hope or thought which is in the minds of men will gradually lessen and to that extent we shall more and more descend to the level of beasts. *Swarajya, swarajya*, what does it mean ? And what will be the (effect) of it ? Does *swarajya* mean that one Collector is removed and yours has come ? If the native Collector remain and in the end the English Collectors come, we want them.<sup>1</sup> There is no objection to say, remove such and such a man (and) make such and such an arrangement in such and such a place. Perhaps, a white man when paid will be a servant of us too ; if he be good we shall also keep him. The question is not at all about individuals. The question is about the nation. The chief question is whether a certain nation is to be treated like beasts or considering the people in the nation to be men, their sentiment, their desire for liberty is to be bent in some (direction)

(and) they are to be brought and placed in the rank of civilized nations. And (if the matter) be considered from such a standpoint, then there is no other way (to accomplish this) than (the acquisition of) *swarajya*, than the possession of authority. When that authority will once come into our hands then we shall be able to do thousands of things. Such a great attempt was made at Poona (to close) a liquor shop of Ghoda,—which may be bringing a revenue of a thousand or two to Government. But it is not under our control to close it. Why is so much correspondence<sup>1</sup> (required) to (decide) that a liquor shop should be started at a certain place or should not be started (there)? I think that the annual profit of the shop may not be equal to (the price of the) paper that may have been used in connection with all this business (laughter<sup>2</sup> hear, hear). This business which goes on in the present system should be put a stop to, this high-handedness should be ended and the authority should come into our hands. By the authority coming into our hands the hereditary qualities which we possess will be heightened. We shall find a way to make a use of those qualities in some way or other. That (is) *swarajya*. *Swarajya*, is nothing else. What if it be to a small extent? It does not trouble you. It does not trouble you as much as it should. (If it be said), one sits at home, does some business or other, gets some money maintains his children,—this much will suffice, wherefore should there now be the movement for *swarajya*? The only answer to this is the one idea in respect to the nation, viz., that there is in this world something more than ourselves, that there is one more duty of bringing about the good of a greater number than yourself—this duty you have begun to forget. There was a time when in this country, among the succession (of great men) in the Maharashtra there were able men who were awake to ideals. But owing to fate, this human nature has not remained. If another man begins to do our work, we say good.

1. The word is in English in the original.

CC-0: Jangarnwadi Math Collection. Digitized by eGangotri

2. In English.

When the work is done, that is sufficient. But the discrimination where to say good and where not has left us. The English people carry on our administration, you are sitting quietly. If there be any dirt in the cattleshed they sweep it away, look to sanitation, feed them and water them at the proper time,—but have the cattle put the question that this management should come in their hands? (Laughter). The difference between the men and cattle is that the Collector of Nagar looks to sanitation, tells what should be done if a disease comes, makes arrangement if a famine comes, takes measures that no calamity may befall you. That is to say your condition has become like that of a parrot kept in a cage; such a condition is not wanted; the cause of this is not merely that they make things go, but that owing to that arrangement all the (good) qualities possessed by us are gradually disappearing. In order that those (qualities), may not disappear, we must be at liberty to do what they do; other things (lit. subjects) than those done by them are not to be found out; (we) are not to leave (alone) what they do and do any other thing we may like. The same (thing) is wanted. We want the same power to be in our hands. There is only one objection to this. But it is very bad that such a condition should arrive. A story was published in the *Kesari*; Rabindranath Tagore has given in his autobiography a poem of this sort about a parrot kept in a cage. It narrates in full a conversation between a parrot kept in a cage and a free parrot. The free parrot said to the parrot in the cage: "There is such fun outside; one can roam so much, go anywhere one likes, can eat at any time one likes. Have you got such joy?" The parrot kept in the cage replied: "Sir, what you say is true. But where can this golden perch be obtained after going out"? Our condition has become like that. If *swarajya* be got, how are we to manage it? No one gives, no one takes. Your anxiety is if *swarajya* be got how are we to manage it? We are not fit. If the said parrot went out, how was he to get the cage and the perch to sit on etc. We have reached just the same condition. This condition is not

natural. It is artificial. Just as that sentiment arose in that parrot's mind owing to his being confined in a cage for many years so also the above sentiment arose in our mind owing to the above powers having passed out of our hands. This is not our original natural sentiment—the natural human sentiment. As that is not the parrot's natural sentiment, just so this is not the natural sentiment of our nation. This must be borne in mind at first. We become fit to do the work that falls to us. We are the descendants of those people who were fit in this manner, and if we be their true descendants, the same qualities must become manifest in us when we have that opportunity. And we must make exertions for it with the confidence that they will (become manifest). This is what I say (cheers). If heredity (lit. hereditary effect) has any value, recognise it, otherwise at least give up calling yourselves the grandsons,—great-grandsons—of such and such a person. There are now many sardars in our country. They say that their grandfathers were sardars and that they also have inherited the qualities of their grandfather's blood. But in order to save the vatan acquired by them (the grandfathers), they serve Sahebs in any manner they choose; well I say, they began to do so because they are sardars. But why should you or we, who have nothing to obtain, run after them? A sort of shadow has thus been thrown over the nation and we have to get out of it. This is an eclipse. When the moon is eclipsed, alms are given for its becoming free. You are not prepared to spend even a pie to put an end to the eclipse which has overtaken you, nor are you prepared to move for it. When the moon was eclipsed the Brahmans of ancient times used at least to make *jap* (repeating passages from Vedas, etc.). Do you make any *jap* at least? Are you making exertions for this? Are you prepared to pay a few (lit. two) pice to any one for this? No, nothing. They only raise this objection. If powers be given to the Hindus, what are the Muhammadans to do? If the rights of ~~we~~ <sup>any</sup> can be given to the Hindus, the Muhammadans would not get (them). As if (we) cannot after-

wards duly consult our Muhammadan brethren and come to a settlement. If powers came into our hands we would exercise *zulum* over the Muhammedans, and if the powers pass into their hands they would exercise *zulum* over the Hindus ! These (men) come to tell you these things on the people's behalf. Who are they ? Why do they tell you things ? To delude you. This must be considered. These civil servants are far more clever than you. They want to keep power in their hands. This case is like that of (the story) 'of the three rogues.'

"When you make a demand in political matters you are told 'you are effeminate.' The Muhammedans are opposed to you. (So will they say).<sup>1</sup> If the Muhammedans say that they have no objection, (they) point their finger at a third thing. In this manner this roguery is practised. Without being deceived by this roguery... ..<sup>2</sup> I do not say to any of you that you should do unlawful things in order to acquire these rights. There is a lawful way. But that lawful way is such that you must not listen to others at all. You must be prepared to say resolutely that you want what is yours. So long as you do not make a resolution in your mind, as soon as some police officer comes (and asks you) 'Well had you gone to Mr. Tilak's lecture ?' (you answer) 'Yes I went towards the end (of it,) sat at a distance, and could not hear the whole.' (You) cannot deny, as the police officer has seen (you). Why is there such a fear in your mind ? What is there to fear in saying that you want *swarajya* ? It is hear that the difficulty arises. When subsequently asked by the people who had attended the lecture, he tells the truth. But when asked by the Police he says 'I did not hear it well, two or four were telling, what could be done ? Well, my opinion is not like his.' Such shuffling will not do in this matter. No goddess is propitiated by shuffling. That goddess knows what is in your mind, and of all these knowing goddesses, the goddess of Liberty is

1. The brackets are in the original.

CC-0. Jangamwadi Mass Collection. Digitized by eGangotri  
2. The sentence is not complete in the original.

most particular on this point. (lit. subject). Ask what you want and they will give it. Perhaps they may say 'no' once or twice. How many times will they say 'no'? They must be convinced that there is no shuffling in this matter. They must be convinced that there is no other course, unless effort is made.<sup>1</sup> It is the business of every goddess to frighten you until it appears that there is something in you. If we look into our *yoga* science, it (appears that) a goddess has to be won over. They begin to frighten (us). If there is success, all right. If, without yielding to fear, we do our work resolutely, the goddesses of the *yoga* science will become propitiated. This admits of proof, this is the rule. Even in political matters there is no other rule—other way. We want it, we shall secure it (*swarajya*)<sup>2</sup> and we shall not give up our exertions without getting it,—unless there be such a firm confidence in you this thing would not be obtained at all. This fear will remain behind, the Police will remain behind, the C. I. D. and Collector will remain behind, in the end that thing will be obtained. You must not be afraid of their blustering and bawling. Nay, (you) must consider that this is a definite consequence of this. There is a saying in English 'How can light be seen without going through darkness?' To rise in the morning, the sun has to go through darkness, I tell you the belief of the common people, and not a proposition (lit. belief) of science. Without going through darkness, light cannot be obtained. Without getting out of the reach of these blasts of hot air, troubles, and people's blustering and bawling liberty cannot be obtained. Resolution is wanted. I told you what is *swarajya*. Efforts for it must be begun as much strenuously.....<sup>3</sup> By the grace of God, the world's condition is at present undergoing a change. To speak in the language of faith, God has become ready to render help. But though God be ready, you are not ready (laughter). God is quiet. Should a gift be sent

1. Not clear in the original.

2. Brackets are in the original. Collection, Digitized by eGangotri

3. The sentence is incomplete in the original.

to you from heaven ! Nobody at all sends. Even God does not send. And if He sends, it will also be of no use. For when you are afraid, what already exists may afterwards disappear. If this gift is given, how is it to be used ? That is to say, if there be any place of God, you will send it to his house. You will send it if it can be sent by post (laughter). After there is (rise of) such a sentiment, after authority of this sort which forms part of the national rights of which I have told you, comes into your hands, what will take place ? What will be the effect upon the nation ? This I am going to tell to-day. I have told you what is *swarajya*. My friend, Mr. Kelkar, has already told you that *swarajya* does not mean that our authority is to be established here by driving away the English. Some people will have to be driven away. (*Swarajya*) is not driving away the King and taking his authority into one's hands. It means taking into the hand the subjects' rights. If it be carefully considered if England derived any benefit by keeping this one nation a slave, it will be seen from the condition of the whole of the world to-day that England will have some day or other to give liberty to the provinces and countries forming parts of the Empire under its control. This thing is to take place some day. It must take place. But if you do not do anything then only it will not take place. After keeping awake the whole night, you feel asleep when the thief came, such will be your condition. The time is coming. Perhaps the nature of the change occurring in the world—in other nations—will by the grace of God prove favourable to you. But (if) the time be favourable, it will be of use if you are awake. Otherwise (once) you sleep, you will sleep on. Owing to this, what will it avail even if we get the right of *swarajya*? I will briefly give you a picture of what will happen. What happened during Peshwa's time ? We must examine history a little for it. At the time of the Peshwas the administration of Maharashtra was going on well. Elphinstone was the Saheb who brought about the fall of this rule of the Peshwas, and who became the Commissioner after its fall. That Saheb

is witness to (what I say). Though the city of Poona was such a big one there took place no dacoities in it at night. The consumption of liquor was *nil*. It was altogether prohibited. The original system of *jamabandi* which was once settled by Nana Farnavis, was itself copied afterwards. Nay, the science as to how accounts are to be kept took its rise among us under the Peshwa's rule, and those very accounts are now kept. We know how to administer provinces. The C. I. D. of Nana Farnavis was so very excellent that information as to what a certain *sardar* spoke to a certain man at the time of dining used to be sent to him (cheers). The following incident is said to have happened at one time. The Bombay Government had sent ammunition to the Resident in a palanquin by way of the Khopoli Ghat. An order was issued from the Poona Daftari that the palanquin which might come on such and such a date should be stopped on the Ghat. It had the information that ammunition was to come in a palanquin. Afterwards the Resident complained "Why is our palanquin stopped?" Thereupon he received a reply from Nana Farnavis, "You yourself think about it. We have attached the palanquin and will not let it go. The King must needs be informed what has taken place and at what place. We have done it." (So he was told). The C. I. D. is wanted. Who says no? If the King has no information (he) will not be able to carry on the administration. We have no complaint against the C. I. D. (Our) complaint is about its method of working (cheers) (hear). That method is not under our control. He who has to carry on the administration, must have all departments. Police is wanted, C. I. D. is wanted. Revenue (Department) is wanted. Judicial (Department) is wanted. All departments are wanted. Where (then) is the difficulty? There is difficulty in one matter. All (the departments) must be under the control of the people—our control. The difficulty lies only in this. Several people have formed the opinion that the English are the most civilized, we too must civilize ourselves, who does not want civilization? All

reforms are wanted. During Nana Farnavis' time letters had to be sent; now the C. I. D. will send a wire. Means have become available. The administration is to be carried on by making use of all these. But the whole of this system of administration existed at the time of the Peshwa's rule. Consider what has taken place now after the break-up of that system. When the Peshwa's rule passed away, Nagar, Satara, Poona, which were in the possession of the Peshwa himself, came into the possession of the English. The lieutenants of the Peshwa at that time were great generals. Gaikwar (lit. Baroda), Holkar and Scindia were the chief among the *jahagirdars* and *sardars* who commanded the army. These three survived as all of them soon joined the English Government and the Peshwa's rule was overthrown. This is the history of 1818. What is the condition of these three to-day? What is the condition of the Baroda Sarkar? What is the condition of Holkar? What is the condition of the Scindia Sarkar? And what is the condition of the territory or the district(s) adjoining Poona? Think about this. These three or four districts having gone into the possession of the English Government, the whole of their administration gradually passed into the hands of a bureaucracy. The policy of this bureaucracy is not to listen at all to the people. First Governor, then Commissioner, then Collector, the Collector's subordinate the Assistant Collector, Mamlatdar, Aval Karkun, Fouzdar, Police sepoy—such is the arrangement of the whole of the bureaucracy from first to last. What is to be done for the people is to be done by them. The Government above issues order in respect of anything which it may think beneficial or harmful to the people, and according to it steps are taken below. At first (this arrangement) was thought very good. The disorder under Bajirav's (rule) was put an end to. They said they were safe now. They saw the ghee but not the rod (laughter). It began to be seen gradually afterwards. All authority went under the control of this bureaucracy. And the remaining people got education. (They) begun to make use of railways.

A telegram can be sent if (some one) is to be informed whether I am coming to Nagar or not. Education was received. All these benefits were got. But all this authority went into the hands of the bureaucracy. It had passed (into their hands) to some extent at the time of the Company: And (it passed wholly into their hands by) the Government of India Act passed in 1858. It is 58 years now since that Act was passed. What has happened during these 58 years? The officials became powerful, and possessed of authority. The people's authority became less. To such an extent that (it was said) we do not want the Kulkarni, we want all servants. Whatever hereditary rights (lit. powers) we may have possessed they too have gone. (This) did not strike (us) when the Inam Commission was appointed. That cannot be helped. They said Vinchurkar was a *jahagirdar* at that time. He was the master of the army. Some one was an officer of an army of 10,000 while some other was the officer of an army of 15,000. They were told 'You have to supply an army of 15,000, while you have to be paid 15 lakhs of rupees of which you have to spend 14 lakhs. Then, take one lakh of rupees.' They consented. (The amount) can be enjoyed while sitting at home, then what? This a great principle. Nobody said at that time 'We lost our right (lit. authority) to keep an army, to fight for Government'; nobody thought so. (It was thought that) Government was good (as) it gives to eat while we sit at home. What more is required? We have been reduced to such a condition owing to this state of things. In 50 or 60 years all the powers of this province have passed into the possession of the European bureaucracy. You should not understand from this that I call the European bureaucracy bad. They are very much learned. These posts are given to the best students from England. Their abilities are greater. But even if all this be admitted still (it is a fact) they have to undergo great wear and tear while working for us (and) the climate of England being cold and that of this country hot, larger pay has to be given to them. Having come for our good, will you say 'no' to them? (laughed). All things,

are admitted by us. I do not also deny that they may perhaps be working a little more than we. I only say, when we are ready to do the work, when it is our work, why (give it) to others? Nor do (I) say that they do it badly. Our minds have begun to grow weak owing to restriction being placed on our work (and) against our interests. Our enthusiasm has begun to become less. Effeminacy is increasing. Therefore, we do not want this. I do not say that they are not wanted because they are not educated. They are good. They are merchants. Will you not get for your shop some agent more clever than yourself? There may be (such men): But will you give your shop into the hands of such an (lit. that) agent and stand aside, taking such money as he will give? This is indeed a question in business. It is a question in any matter. Such was the management of this province. What became of Baroda? Look at the history of Baroda. There are such writings in the history of Baroda. And<sup>1</sup> what he could do there by degrees was not done here by degrees. The *gadi* of the Maharaja of Baroda had to be perpetuated. That was (lit. is) a matter of regular succession. That is a part of history. Formerly Baroda used to be managed or supervised from Poona, and the rest was done by the Kings of Baroda. It<sup>2</sup> might have been done by other kings. Therefore, if you become ready now by receiving education here (you) go to Baroda and ask for service there. There are men educated in Poona and Bombay who are District Magistrates, Munsiffs, Subhas and Diwans there. There are Naib Diwans (and) High Court Judges. These people are working there. They work (there) without complaint (being heard about them). Then where is the objection to the same being done here? If men from the districts of Poona and Satara go and conduct the administration of Baroda, what objection is there for them to carry on the very same administration in the same way in this our province? Who has taken objection? The nation being divided

<sup>1</sup> Not clear in the original.  
CC-0: Jangarnath Collection. Digitized by eGangotri

<sup>2</sup> Not clear in the original.

into two parts, one part—the Marathi nation—went into the possession of the English on account of some historical reason, and one remained in the possession of (native) Chiefs. One part says that the people of this nation are fit to do work. In the other part the authorities say that they are unfit and we too saying ditto to them, begin to talk like them. There are two standards, two sides. Then, what is wanted when (one talks of) *swarajya*? Now you will see where is the objection to make the very same arrangement with regard to Poona (and) Satara as exists in Baroda? The authority of the English Government will remain. It is also over Baroda. The Chief of Baroda is not an independent king. When the Peshwa's rule existed in Poona, the treaty of Bassein was made (in the proportion of) 10 to 6 annas in the rupee. Had the state of Poona remained, they too would have been able to manage it. Satara and Nagar could have been managed by them. The same management exists in the Nizam's territory. *Swarajya* means this much : Give those rights which Native States have and which the Baroda and Scindia Sarkar have, to Poona and Satara after forming them into a State of the Central Division. One difference must, however, be made in this. Now a hereditary chief will not do for us. We shall have to elect our own President. This (is) the only difference. It is a historical puzzle or inconsistency, that the province which was the capital of the Marathas should not be given the arrangement which exists in Native States, while those provinces which were dependent on that province should have it. There is no reason for this. Why should we not become like them? I have told you that the Gackwar and Scindia have sent money and armies to Europe for the war. If (these districts) had been in our possession, we too would have done the same. This thing has nothing to do with (the question whether) the British Government will go or will remain. But the only difference lies in the continuance or the disappearance of the authority of the bureaucracy, the foreign bureaucracy. This is the difference between the arrangements. There is no difference

as to the sovereign authority, which is at the root. I think Mr. Lawrence had formerly suggested that (in view of) the *swarajya* agitation going on, India should be divided into separate Native States, that some experts should be kept there, and only the powers with regard to making treaties with foreign powers and the management of the army and the navy should be kept in their (lit. our) hands so that the English rule may not be in danger. (I) do not say that you should not retain these powers. In the arrangement of *swarajya* these will be the higher questions of Imperial politics. England should freely retain in her hands the questions as to what kind of relation should subsist between India and other nations, whether war should be made for a certain thing or not, and what policy should be followed when relations with foreign nations arise. Those who want *swarajya* do not wish to interfere with these things. What we want is that just as we are to-day managing our own (things) in Native States, we want authority to do the same with regard to ourselves. We shall expend on such and such items the revenue which we get from taxes, we shall spend it on education, if there is less revenue from liquor we shall decide what other taxes should be imposed in lieu thereof and arrange accordingly, we shall manage trade, we shall manage all affairs, you shall not interfere in them. The people of India do not go to any other nation. Why do they not? See if you want to, whether they join France or Germany. If there be still a doubt, one must be able to understand from the present state of things that if Indians are prepared to have connection with any particular country that nation is England (cheers). We will not be benefited by England going away and Germany coming in her place. We do not want the thing. Even if the matter be viewed from another practical point of view, England is here for 100 years, (while) Germany will be a new comer, and its energy will be fresh and hunger unsatisfied. How will that do? What is, is all right. A new king is not wanted. But give into our possession a portion of the powers by losing which

our condition is being reduced to that of orphans. It is not I that alone am saying this. Mr. Lawrence has said so. (He writes that) if hereafter improvement is to be effected in India after the war, if Government intends to effect some (new arrangement, with regard to the people (lit. them), then divide India into different parts. The question of language did not enter his head, but we shall add that idea. Form one separate State each of Marathi, Telagu and Kanarese provinces. The question of vernaculars also comes in this (question of) *swarajya*. There is no question which is not dependent upon *swarajya*. Had there been general liberty, there would have been a Gujarati University, a Marathi University, an Agricultural University. But to do that does not lie in our hands. Is the question whether education should be given through vernacular such a big one, that there should arise differences with regard to it? But (our wish) does not prevail here. Do the English educate their people through the French language? Do Germans (do it) through the English language? Do the Turks impart (education) through the French language? So many examples being before our eyes, why should we write articles, columns upon columns long, upon the subject? Why does that which these people say not take place now? Because (we) have no authority. You have not got the authority to determine what should be taught to your (lit. our) children. So many of you send (your) children to school, but do not consider what will become of them. In short, there is no question at present which is not dependent on 'swarajya'—on authority. Ranade and others have (up till) now made efforts with regard to the Fergusson College and the University. But who is to be prevailed upon? Government! They know what arrangement there was in their country. Why should the same not be here? (For) imparting English education to all, the English language has to be taught for seven or eight years. Eight years is not a small (part) of life. Such (a state of things) exists nowhere else. This arrangement does not exist in any civilized country. If inspite of this your attention is

not drawn towards *sucarajya*, then be sure that there is something wrong with your eyes (cheers). Whatever you have to say, whatever prayer you have to make to Government, let that prayer be for giving authority, and not for anything else. We want those things which are the leading ones under this rule. I have already told you that wherever we go (our path) is ultimately obstructed. The question of education is an ordinary one. There must be schools in each village. Whence is the money to be brought by us? (We) pay taxes to Government. Do we pay them for nothing? Let us have the system prevalent in England for imparting education. There is money in the treasury; it is utilised, it is paid for other purposes; but it is not expended on those things which are necessary for us. Therefore, what I have told you lastly.....<sup>1</sup> India is a big country. Divide it if you want according to languages. Separate the Marathi (speaking) part and the Gujarati (speaking) part. But how are the Hindus and the Musalmans to be taught in them? I am going to speak about this also. In Canada the population consists of Frenchmen and Mohammedans.<sup>2</sup> If English statesmen could settle (the question) there would they not be able to settle how Hindus and Muhammadans should conduct themselves (here)? Thus these are excuses for not giving us these things. This you must believe firmly. If India be divided into different States in this manner:<sup>3</sup> The province of Bengal is separate. Instead of appointing over it a Chief from this side, I say, a European Governor may be appointed for some years. What used to happen before a president elected by the people was secured? A Governor used to go from England to Australia. He was obliged to work in the Council as he was told. Here, it is contrary (to the above). If you want any thing, a resolution is to be brought before the Council, much preparation is to be made, figures are

<sup>1</sup> Sentence incomplete in the original.

<sup>2</sup> Sic.

CC-0. Jangamwadi Math Collection. Digitized by eGangotri

<sup>3</sup> Sentence not complete in the original.

to be collected, he does not get even a pice. The other members of the Council are paid. He has to work for nothing, and at last the resolution is rejected. Though it be passed, Government cannot be forced to give effect to it. It is a childish thing. (I think that he) who does not think it so possesses proportionately less patriotism (cheers.) This is like setting us to fight by throwing grains of boiled rice, without giving anything to us without<sup>1</sup> giving any power to us (lit. without our possessing any power). If any rights will be obtained from this in future, if any power will come into our hands, if (this) be given to us as a step towards the above, then it has a value, otherwise it has no value. What does happen? This is the science of setting good and well-educated men to fight for two or four ghatkas<sup>2</sup>. Hence, bear in mind what will result from *Swarajya* and what we ask. In asking for *swarajya* we ask that in the end there shuld be such States throughout India, that at first Englishmen coming from England and at last presidents elected by the people should be appointed in these States, and that a separate Council should be formed for (disposing of) questions relating to the whole nation. Just as there is an arrangement in Europe, America and the United States, and just as there are different small States and there is a Congress to unite them together so the Government of India should keep in their hands similar powers of the Imperial Council. There are at present seven or eight different provinces; make them twenty if you like and make such an arrangement in respect of those provinces as will give facilities to the people, meet with their approval and place power in their hands. This itself is what is meant by the demand for *swarajya*. The demand for *swarajya* does not mean that the Emperor should be removed. Perhaps, for this arrangement you may have to bring English officers in some places. This is admitted. But those officers will be ours, will be of the people, will remain as servants of the people, will not remain as our masters. The

<sup>1</sup> Not clear in the original.

CC-0. Jangamwadi Math Collection. Digitized by eGangotri

<sup>2</sup> Ghatka equal to 24 minutes.

intelligence of our people will not alone suffice to bring about the reforms which are to be effected in India. We shall have to bring men from England or America, but those men will be responsible to us. They will not be irresponsible. Hence from one point of view, it cannot be said at all that this agitation is against Europeans. To whom would they be responsible? To themselves or to us? So long as this responsibility has not come to us, (so long as) their responsibility has not come under our power, it will continue to be just so! Till then, our efforts will be vain, though made in any direction; till then, in whatever other matter we may make any movement, it will be ineffectual, and the desired object will not be accomplished. As long as a nation is not free to bring about its own good, as long as a nation has no power to make an arrangement to bring about a certain thing which it may desire, so long I do not think, your belly will be filled if you are fed by others. Now the people know, some people are convinced that the people's good cannot be effected by what is called 'despotic' rule<sup>1</sup> in English. Hence, my object is to tell you that you should make efforts. If my words fall short of (expressing) it, that is my defect, not a defect in the idea, which is faultless. All these things, their different natures, cannot be placed before you in a single lecture. As regards this idea of States about which I spoke, there are many questions, viz., what arrangements should there be in them? What rights should there be in them? And what amendment should be made in the India Act of 1858 about consolidation?<sup>2</sup> And though I may deliver not only one but four or ten lectures, they would not be sufficient (to deal with those questions.) Our principle is one—about this alone I have to speak in (this) lecture. Those of you who are competent, by virtue of intelligence, wealth or in some other manner, to consider these things, will spontaneously know that these things are wanted. Why ask, 'Will this be obtained? Will this be obtained?' To acquire it or not

<sup>1</sup> These words occur in English in the original.

<sup>2</sup> Not clear in the Original.

lies in their hands. I do not understand this question at all. You are making so much exertion. (No matter) if it be not obtained. As for making exertions, it is in our hands. We need not consider whether we shall get it or not. Exert yourself. The work which you do will not fail to produce some result or other. Have firm belief in your mind. Have not any men obtained any freedom in the kingdom or not? Had goddesses fallen from above in other nations? I tell you plainly that if you have no courage, (it) will not be obtained. If there be courage, if it be not obtained to-day, it will be obtained tomorrow, it will be obtained after 10 or 20 years. But you must make efforts for it. The principle of your religion is this 'You are only to work, you are not ever to look to the fruits.' Why is this said in the Gita? Is it for going to worship, for obtaining a *shor* of rice by reciting Puran? Great religions tell this very thing. The Western history tells this very thing. In spite of this, will you ask 'What will become of us? How shall we fare?' 'As made of a ball of earth, etc.' There is a ball of earth. We have it to be called Vishnu. We have it to be called Shiva. And we impart so much importance to it that it is worshipped by the people. Lo! (it is) merely a ball of earth without any movement. When dropped on the ground it falls down with a thud. We can give a form to that ball by some act, exertion (and) ceremony. Now, these our bodies which are, unlike that earthen ball, endowed with life.....<sup>1</sup> If a form of some sort cannot be given to an earthen ball, it must be said to be your fault. It is possible to give them a form. Do not make haste. Nothing will be gained by it (haste).<sup>2</sup> If you work resolutely, a different form can be given to an earthen ball. This thing is told in the *shastras*. It is proved. It is proved by experience, proved by evidence, by history. If, in spite of this testimony placed before you, you are not convinced, if you are not satisfied, at least give up talking about the country attaining a

<sup>1</sup> This sentence is not complete in the original.  
Digitized by eGangotri

<sup>2</sup> The brackets are in the original.

flourishing condition afresh. Do not bother our heads. These things are capable of happening—must happen. There must be such faith. That faith brings about works. Where that faith does not exist<sup>1</sup>! What is to be done then? They do not give anything, they only say they would give—such an opinion is not wanted. I do not say that what may be given should not be taken. Take what is given, ask for more, do not give up your demand. (Laughter.)<sup>2</sup> We want so many rupees. You gave one hundred. 'Take one hundred from another,—why should\* you have such an opinion? If even (some) out of hundred be not offered, what have you now to say against them?\*' (Laughter.) We want one thousand. When we get a thousand rupees, we shall be satisfied. If 1/10 of a hundred be given we shall thank (you) (laughter). Not that we shall not thank (you). This is human nature. If my paper falls down, I shall say 'thank you' when you give it to me. This is human feeling. I do not tell (you) to give it up. But the humanness of man lies in securing those aspirations which are included in this feeling. All these other feelings must be treated<sup>4</sup> as servants of that feeling, that exertion, that one goal. When this is done *swarajya* will be obtained. *Swarajya* is not a fruit (so) that it may at once fall into the mouth from the sky. Another man is required to put it into the mouth. This is such<sup>5</sup> a work. And for it this beginning is made. The paper which my friend Tatya Saheb has now given into my hand is of such a sort. The work has been begun a little in India. Mrs. Annie Besant has established a Home Rule League at Madras. Here also we have established one. And in the same manner a Home Rule League will soon be established in Bengal or elsewhere. If, perhaps

<sup>1</sup> Not clear in the original.

<sup>2</sup> Not clear in the original.

<sup>3</sup> Not clear in the original.

<sup>4</sup> Not clear in the original.

<sup>5</sup> Not clear in the original.

the Congress will take up this question and itself establish a league, the other leagues will be merged into it. The same work is to be done. This work is one and you are to do (it) This is a question of (securing) benefit. We have to obtain *swarajya*, . I have told you what sort of *swarajya* is to be obtained. I told you what change it will hereafter produce in the present condition. The House of Lords have begun to have such dreams. Lord Hardinge said that the Civilians will soon have to place in your hands the rights belonging to you. The people belonging to the party opposed to you in this matter have begun to have bad dreams (laughter). While you alone (say) 'We are unfit, we shall not take this.' Whence (does) this obstinacy (arise)? (Laughter.) What is the rationale of this? (It is that) they have begun to have such dreams. They think that some or other arrangement of this sort will have to be made. The work you have to do first (is this): You must make agitation in the whole country and convince every man that this alone is our goal. For this we have to work. Nay, we must settle what is it we want, what arrangement should there be—this demand must be settled. We must go to England and convince the people of it. And when this subject will be discussed in Parliament this subject must be placed before it in a proper manner. That 'proper manner' means that a bill to amend the existing India Act must be brought before Parliament. What we have to demand is this: Amend this Act for us. When the East India Company was abolished and the rule of the Queen's government came, this Act was amended i. e., minor amendments were made in it. We want to have it amended in a certain manner. And this is wanted not merely for our good but for the good of the Empire. To make such a demand of them is a part (lit. business) of that work. This work must be done with the help and acquiescence of all. There must be left no difference of opinion about this. The moderates and the Nationalists have one and the same goal, one and the same demand is to be made and one and the same (thing) is to be obtained. For

doing this work which is to be carried on by entertaining this sentiment, a separate institution called the Home Rule League is established. This subject is placed before the Congress. But as the Congress is to assemble once a year, when once an opportunity is gone, (another comes) in the next year. But we have to do this work throughout the year. This is admitted by the Congress. With this object we have established this League. Not very great exertion is required for this. Recognize this goal. We have a right to demand (the fulfilment of) this goal. The demand for money made to-day is only this : Every man should pay one rupee. The admission fee is Rs. 2. But if this is not to be paid, pay at least one rupee. If one lakh out of thirty crores of people be not found (willing to pay,) then at least cease to prate about India. Do not tire our ears. I do not think that more than a year will be required for this agitation to become successful. The subscription for one year is fixed at Re. 1. It is not necessary to carry on the agitation for 10 or 20 years. Such a time has come. Hence if you are not disposed to make the self-sacrifice of taking one rupee out of your pocket for this agitation then at least do not come to the lecture, so that it may not be necessary to talk so loudly. If you have do to anything it is only this. The people belonging to this institution are prepared to make the remaining arrangement. For this purpose many lectures like this will have to be delivered in various places. People will have to be got together. (The matter) will have to be explained to the people. If the police come to stop (the proceedings), if it is not (allowed) here, we must go elsewhere and assemble. We must go there before the police go. We must persist. Do not think that this can be obtained easily and pleasantly. One rupee is nothing. There must be resolution of the mind. If any one comes to ask, you must plainly tell him: The goal we demand is lawful. We have become its members and paid one rupee. We want that thing. You must say this fearlessly. If you have not the courage to say

this, that is a different thing. I trust that this thing will be considered good by the whole of India, perhaps by your descendants if not by you. Though you may not have the will, this thing must be done. If not you, the people of the next generation will make efforts, but they will call you asses. If you mean to put up with this, then I have no objection. My own conviction is that it will be obtained. Bear in mind what work you have to do and what help you have to give. Perhaps there will be trouble from the police, this is not denied. (If they ask) 'Well, have you become subscribers? Have you become members?' You must say 'Yes, we have become.' Such is the law, nothing else will happen. If a prosecution be instituted, the pleaders in this (institution) will conduct the (defence) without taking any fee (laughter). If a rupee be paid for this work, that would not be sedition. More than this (*i.e.* paying Re. 1 and becoming a member)<sup>1</sup> you have not to do. This League undertakes to do the remaining work. (Strange) that the people of Maharashtra should remain quiet at such a time! We want all, whether they be Muhammadans, Hindus (or) Marwaris. Among these there are none who are not wanted; in this there is no distinction of caste or religion. This work is to be done for India. I have already stated on a former occasion at a certain place, that there is a (practice) amongst you traders that they keep one anna (in the rupee) out of profits for cow protection. Such is your habit. I ask, 'Why should not the traders give to us a pice or half pice in the anna for this (object) also?' India is a great cow, not a small one. That cow has given you birth. You are maintaining yourselves on that cow's industry, on her fruitfulness, (and by) drinking her milk. (You) forget that cow, but (lit. and) on seeing the accounts one anna, one anna (is seen) debited in her name. (For cow-protection).<sup>2</sup> For what is the anna taken out? For giving fodder to the cow, for rescuing her from the hands of the butcher. We are dying here to-day

<sup>1</sup> The brackets are in the original. Langmanwadi Math Collection. Digitized by eGangotri

<sup>2</sup> The brackets are in the original.

## PRESS OPINION ON THE Poona Magistrate's Order.

The task of honest and outspoken criticism of the administration is being rendered increasingly difficult by the growing disinclination of Government to tolerate it.....  
.....It is impossible to hold that the speeches for which he has been severely punished were seditious, with all the respect that we may feel for the opinion of the learned Magistrate of Poona.

—Leader.

The gagging of Bal Gangadhar Tilak executed by a member of the Indian Civil Service, which he had attacked with a force and an effectiveness which has driven it to fury, marks another stage on the hard and thorny road which leads to India's Freedom. Mr. Tilak has already suffered seven and a half years of prison for his love of India and his health will never recover from the sufferings which have added twenty years to his age. His body has been weakened, but his mind is as vigorous as ever and his spirit as unbroken. This cruel gagging will only strengthen his determination to free India from the yoke of a bureaucracy, which makes it impossible for such a man to speak to his own people.

—New India.

There are a few individuals in every country and age, and Mr. Tilak is one of them, on whom warnings from men in power are usually thrown away, for the simple reason that they follow no light except what dwells in them and so long as they are satisfied that they are true to this indwelling light—no matter whether it be right or wrong—they will not follow any other. It is to this fact and not to perverse obstinacy that Mr. Tilak owes the succession of troubles that have come upon him almost uninterruptedly ever since he began to take an active and prominent part in political agitation. One can easily recall cases in which one single trouble has sufficed to cure a man of opinions and practices which are not favoured by officialism. Mr. Tilak has in all passed more than six years in jail, and is still apparently the same man that he was when he was first convicted of sedition. We can think of only two explanations for the persistency which Mr. Tilak has been showing. Either he believes that the opinions he has been expressing are perfectly lawful or he thinks that they ought to be lawful if they are not.

But where there is "a subject race" all is changed, and disapproval of the bureaucracy is condemned as sedition by one of them, set as judge. Let any Englishman read Mr. Tilak's speech and ask himself whether, if the German rule were established in England and that speech had been made in England by an Englishman, he would not applaud it as patriotic. May an Indian have no love of country, no pride of race, no longing for liberty, no desire to live a free man in his own land? Are all these natural yearnings of the human heart to be trampled into silence, and a penalty of nearly £3,000 sterling to be imposed, if the Indian dares to speak that which every Indian, who has not the soul of a slave, feels in his heart?

—*Commonweal.*

They contain a lucid, incisive and masterly presentment of the case for Swaraj or Home Rule in India, but excepting by a most far-fetched and forced construction of the law of sedition, it cannot be maintained that that offence can be held to have been committed, and it is the grave doubt attaching to the matter and the public indignation which would be aroused, that probably led the Bombay Government to take the more lenient view referred to by the Magistrate.....

..... While any amount of carping criticism is tolerated when it proceeds from the Anglo-Indian Press the Government is quick to scent sedition and disloyalty in utterances from Indians calculated to awaken the people of the country to a just sense of their inferior position and to make efforts to better themselves in the scale of national advancement. The attitude of the officials which now confronts the advance wing of the National Congress party is the same as that with which the moderate leaders were faced many years ago. —*The Hindu.*

We hold over our comments on the case from the standpoints of law and justice till it is finally decided by the High Court. We have, however, no hesitation in saying that Government has shown bad statesmanship in instituting the case at the present time. We are strongly of opinion that Government ought to desist at present from acts which are likely to create unrest among the people, and hence we hold that the authorities have blundered egregiously in taking this case in hand. It surprises us to see that Government is doing the very things which it ought to have refrained from doing under the present circumstances.

—*Dnyan-Prakash.*

It is easy to punish any writer or speaker on political topics under the existing law of sedition. We do not find Mr.

Tilak's speeches to be seditious, as nowhere has he advocated the breaking up of the connection between India and Britain. It is not really sedition to criticise individual officials or the bureaucracy with a view to bring about a change in a law or in the system of Government. But under the existing law, this criticism is counted sedition.

—*Pravasi* (A Bengali monthly).

From the judgment of Mr. Hatch one will be led to infer that the little freedom of speech and writing that has been left to us will be wrested from us..... Whoever spoke on Home Rule would have to lay bare the defects in the present system of Government. The advocacy of *Swarajya* cannot be attempted without pointing out the weak points in the bureaucracy and the Civil Service.—*Abhyudaya* (Hindi—Prayag).

## PRESS OPINION ON THE Bombay High Court's Decision.

So now Lok, Tilak is free to use his tongue for the helping of the Motherland, no longer bound to the "good behaviour," which means, from the standpoint of the Magistrate, that he must not speak the truth about India. —*New India*.

Nothing even remotely resembling this has happened since the famous *Karmayogin* case and the present case is immeasurably more important, because while in the *Karmayogin* case it was only a printer who had been convicted of the technical offence of publishing seditious matter, in the present case the person, against whom the Government had proceeded and whom the District Magistrate of Poona had bound over to be of good behaviour, was one of the foremost public men in the whole country, a man who had more than once suffered for having sought to serve his country according to his lights and who commands a measure of popularity in his own part of the country, such as few other public men enjoy in theirs.

In that case, as in this, the prosecution had shown unusual zeal, the law officers of the Crown had until the very last moment been confident of an easy and assured victory and the lower court had taken the same view of the alleged incriminating utterance as the law officers of the Crown. In that case, as in this, one of the most important questions before the High Court was what precisely was meant by the Government as by law established..

On this point we wish very much that His Lordship had come to a different finding. One of the most important questions for determination in this case was what was or was not meant by the phrase "the Government as by law established." Mr. Jinnah had contended, in our opinion with absolute justice, that "the Government as by law established" meant the King-Emperor and the British Parliament. On the other hand the learned Advocate-General had argued that the phrase meant the administration carried on by those who were authorised by law to carry it on. This last, if we remember aright, was the very view urged by Dr. Kenrick in the *Karma-yogin* case, which led one of the two Judges, who heard the appeal in that case, to ask if in the opinion of the Advocate-General, a potty police officer, who was authorised by law to carry on a certain and specified part of the administration, was also the Government as by law established. In the present case it is a great pity that His Lordship held that attacking the Civil Service was not quite a different thing from attacking the Government which worked with the Civil Service, its accredited agents. We do hold that the Civil Service is not the same thing as the Government, and now that the question, whether an attack upon the one is the same thing as an attack upon the other, has been definitely raised, we must say, with the greatest respect for Mr. Justice Batchelor that it cannot be allowed to rest where his lordship's judgment has left it. In reviewing the result of this case it is necessary to remember that it would be the greatest mistake for any one to imagine that the decision of Their Lordships is a blow to the Government. The cause of the Government is the cause of the law and order of the prestige of the ruling authority, of the immemorial principles of liberty and justice which the British Crown and the British Parliament incarnate. It is safe to assert that never did this cause stand higher than it does to-day. It is the triumph of the prosecution which would have meant the defeat of all that make the British Government and British institutions what they are. It is the defeat of the prosecution that does redound to the glory of that Government and of those institutions.

Punjab.

It is not for us to decide whether such attacks on British ministers or the English Civil Service can be treated as attacks on the British government and will amount to sedition. Whatever they may be, it is very satisfactory that the right of public criticism and the right to ask for self-government on constitutional lines have been successfully vindicated. The

District Magistrate's decision and its unqualified reversal by the High Court show how the Magistracy in India has been invested with vast powers which seriously affect the constitutional rights of the people and how Magistrates are apt to go wrong even in the administration of law which has been authoritatively laid down by the Indian High Courts.—*Gujarati.*

We confess we find it difficult to conceive how anyone reading Mr. Tilak's speeches in the carefully discriminating frame of mind, could come to any other conclusion than that to which this procedure led Mr. Justice Batchelor and his colleague....It requires but one instance of the kind provided by the Tilak case to expose the dangers to which His Majesty's subjects in this country are exposed by the removal of those restraints on the Executive which are the basic essential of constitutional liberty. It is no cant phrase which tells us that the High Courts are the palladium of the people's liberty. And it is a melancholy reflection that the people of British India should have been deprived of their protection by recent repressive legislation.

—*Bombay Chronicle.*

The decision of their Lordships will not in the least surprise anybody who has read the speeches. The action of the Government in launching the proceedings is to be regretted, because it would lend itself to the suggestion that the Government cannot tolerate criticisms which the High Court finds to be unobjectionable. In the light of the High Court's decision, the observation of the Magistrate that the Government had been merciful to him in not prosecuting him was uncalled for, and it does not speak well for his appreciation of evidence that he should have been so ready to accept the accusation. There is, no doubt, considerable prejudice against Mr. Tilak, and that accounts for so sinister an interpretation being put on his speeches. It was well that the Government took action against him in a manner that permitted him to justify himself under the law before the highest tribunal. And in the interests of liberty of public discussion the decision is to be welcomed.

—*Indian Patriot.*

The entire nation believes that Mr. Tilak's loyalty and good intentions cannot be doubted for one moment....We are glad that Mr. Tilak has thus vindicated his policy and criticism of Government and that a liberal interpretation of his opposition has exonerated him from the charge of disloyalty. We hope a similar liberal interpretation will be made in regard to ~~press~~ criticisms of a similar character by executive authorities.

From the telegram published elsewhere, it will be seen that the High Court of Bombay has relieved Mr. B. G. Tilak of the security bond of Rs. 40,000 which was hung round his neck by the Magistrate of Poona under the Budmashi section of the Criminal Procedure Code in order to make him a good boy, that is to say, to prevent him from calling spade a spade when criticising Indian officials and their doings. But man proposes and somebody else disposes. Mr. Tilak's escape from the iron grip of the Executive shows that the bureaucracy is yet not omnipotent in this country, and Justice now and then asserts her decision. What a queer position for the Government of Bombay ! Why did it invite this humiliation upon itself without rhyme or reason ?

—A. B. Patrika.

We offer our hearty congratulations to Mr. Tilak on the happy result and express our great satisfaction that the honourable judges of the High Court, by keeping out political considerations in the administration of justice, have vindicated the deservedly high reputation of British justice. —Leader.

The Government of Lord Willingdon placed themselves in a piteous position when they listened to the silly counsels of the C. I. D. inquisition and made the sort of 'exhibition' which was 'exposed' at the High Court. We trust the Bombay Government have been taught a lesson which they will take to heart, and determine to kick off unreliable crutches like that of the C. I. D.

—Message.

We pointed out in these columns at the time that Mr. Tilak's lectures contained "a lucid, incisive and masterly presentation of the case for Swarajya or Home Rule in India, but excepting by a most far fetched and forced construction of the law of sedition it cannot be maintained that that offence can be held to have been committed and it is the grave doubt attaching to the matter and the public indignation which would be aroused, that probably led the Bombay Government to take the more lenient view referred to by the Magistrate." The Judgment of Batchelor and Shah JJ. has confirmed our opinion, and it has further shown that the views of the Bombay Government, of its legal advisers, and of the District Magistrate of Poona are quite erroneous and unsound. It need hardly be pointed out that the order of prohibition against Mrs. Besant is based upon the opinions of such authorities and while in the case of Mr. Tilak, justice could be had by recourse to the High Court, the hardship and injustice involved in the order of prohibition which was a condemnation without hearing, and by the Executive authorities which are so

liable to make mistakes of judgment, stand unremedied. The Executive Governments in all the provinces in India would do well to bear in mind, if they are intent upon doing justice, that their opinions as well as those of their Advocate-General are by no means infallible but very much the contrary. Especially is this the case where political considerations come into play. This is proved to demonstration by the Security case against Mr. Tilak, decided by the Bombay High Court.—*The Hindu.*

No man speaks on political matters except to bring a grievance or aspiration to public notice, and even in an advanced country like England, where the people have had a political training for generations, politicians are not always able to confine their criticism of measures within the bounds set by the Indian Penal Code. Apart from the law on the point, we can think of no more inopportune time for scenting sedition in speeches where, in every other sentence almost, the speaker proclaims his loyalty to British rule. Of course, it is more than possible that a man may spout rank sedition, interlarding his speech with "God save the King," but the trick is not likely to deceive any one, and even the most servilely adoring audience will be disgusted with such transparent duplicity, and there can consequently be no question of the speaker influencing it. One may not like Mr. Tilak's politics but one has no right to attribute to him the contemptible kind of cowardice which such a tactics would imply. We cannot help thinking that the legal advisers of Government have been rather careless in launching the prosecution. And it is a costly carelessness both to Government and the parties concerned.

—*Indian Social Reformer.*

The whole country will be extremely pleased to learn that the Bombay High Court has set aside the monstrous order of the District Magistrate of Poona binding Mr. Tilak to be of good behaviour for one year. The person who had translated the summaries into English was not called as a witness or offered for cross-examination. Counsel for the prosecution put in the fact of Mr. Tilak's previous convictions before evidence had been gone into. It was, in fact, assumed by the Magistrate that Mr. Tilak must have preached sedition because he had been twice before convicted of that offence. The text of the judgment of the High Court will show what the learned Judges think of the decision of the Magistrate.—*Bengalee.*

Whatever differences we may have with this great patriot, there can be no denying the fact that he has been uniformly sincere and law-abiding.

*Beharee.*

A great Bengalee once wrote that it was impossible to think of India without the Maharashtra. That is true. The Maharashtra which gave a Sivaji in the past also given a Ranade, a Gokhale, a Tilak. All these have rendered invaluable service to the Motherland. An inspiring example is a priceless lesson to Young India. And Gokhale have gone to their rest and the only living leader is Tilak. He is, in a land of Rishis, a Rishi himself, embodiment of disinterested purpose, Mr. Tilak has a hold on the country more than any leader that we have. He is adored by myriads of Indians. His name is written on the tablet of their hearts. And they have no greater desire than that he might live long enough to bless their nation. We congratulate the Justices for holding the balance even-handed. We thank them for approaching the case without any prepossessed views. As for Bal Gangadhar Tatyasaheb, he can have no greater consolation than that 'God sees but waits.' We congratulate Indian Nationalism—how can we congratulate—and British Justice, the former for the glorious future opening before it, the latter on its vindication of what is just and what is true. Thank God for the unbaised men including Anglo-Indians, the load of suspicion thrust on the shoulders of the great veteran of Boston has been removed.

—A.

Thus a great victory has been won for the cause of Home Rule. And it is a great victory for the cause of India. Rule which has thus been free from the chains that were to be put upon it. Firstly, we must render our tribute to the man who, by his fearless and consistent devotion to the cause of Home Rule for India, won this great victory for us. He who has at last by the judgment of the High Court, which there is none higher in the land, has cleared himself of the slur of disloyalty that it has been sought to cast upon him. Mr. Tilak has undergone many sufferings for his country's cause. Those who have known him as he worked and worked with him have known how unjust was the treatment of him by many. He has now been vindicated and is free to continue to work for his country with the same undiminished zeal that we feel sure he will not allow to be diminished but will rather increase. He has not been silenced. But he has won this victory not for himself alone but for his countrymen at large. It rests with us to carry on the good work and reap the fruits that will come from the seeds he has sown.





